Virginia Administrative Code
Title 22. Social Services
Agency 30. Department For Aging And Rehabilitative Services
Chapter 100. Adult Protective Services

22VAC30-100-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Abuse" means the willful infliction of physical pain, injury, or mental anguish or unreasonable confinement of an adult as defined in § 63.2-1603 of the Code of Virginia.

"Adult" means any person 60 years of age and older, or any person 18 years of age or older who is incapacitated and who resides in the Commonwealth; provided, however, "adult" may include qualifying nonresidents who are temporarily in the Commonwealth and who are in need of temporary or emergency protective services.

"Adult protective services" or "APS" means services provided by the local department that are necessary to protect an adult as defined in § 63.2-1603 of the Code of Virginia from abuse, neglect, or exploitation.

"APS case management information system" means the computer system that collects and maintains information on APS reports, investigations, and service provision. The system is the official state automated system for APS.

"Collateral" means a person whose personal or professional knowledge may help confirm or rebut the allegations of adult abuse, neglect, or exploitation or whose involvement may help ensure the safety of the adult.

"Commissioner" means the commissioner of the department.

"Conservator" means a person appointed by the court who is responsible for managing the estate and financial affairs of an incapacitated person, and where the context plainly indicates, includes a "limited conservator" or a "temporary conservator."

"Department" or "DARS" means the Virginia Department for Aging and Rehabilitative Services.

"Director" means the director or his designated representative of the local department of social services of any city or county in the Commonwealth.

"Disposition" means the determination by the local department of whether or not adult abuse, neglect, or exploitation has occurred.

"Documentation" means information and materials, written or otherwise, concerning allegations, facts, and evidence.

"Exploitation" means the illegal, unauthorized, improper, or fraudulent use of an adult as defined in § 63.2-1603 of the Code of Virginia or the adult's funds, property, benefits, resources, or other assets for another's profit, benefit, or advantage, including a caregiver or person serving in a

fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets. "Adult exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or perform such services.

"Guardian" means a person appointed by the court who is responsible for the personal affairs of an incapacitated person, including responsibility for making decisions regarding the person's support, care, health, safety, habilitation, education, therapeutic treatment, and, if not inconsistent with an order of involuntary admission, residence. Where the context plainly indicates, the term includes a "limited guardian" or a "temporary guardian." The powers and duties of the guardian are defined by the court and are limited to matters within the areas in which the person in need of a guardian has been determined to be incapacitated.

"Guardian ad litem" means an attorney appointed by the court to represent the interest of the adult for whom a guardian or conservator is requested.

"Incapacitated person" means any adult who is impaired by reason of mental illness, intellectual disability, physical illness or disability, advanced age, or other causes to the extent that the adult lacks sufficient understanding or capacity to make, communicate, or carry out responsible decisions concerning his well-being. As used in this chapter for the purpose of establishing an adult's eligibility for APS, such adult may or may not have been adjudicated incapacitated by a court.

"Involuntary protective services" means those services authorized by the court for an adult who has been determined to need protective services and who has been adjudicated incapacitated and lacking the capacity to consent to receive the needed protective services.

"Lacks capacity to consent" means a preliminary judgment of a local department of social services that an adult is unable to consent to receive needed services for reasons that relate to an emotional or psychiatric condition, intellectual disability, developmental disability, or other reasons that impair the adult's ability to recognize a substantial risk of death or immediate and serious harm to himself. The lack of capacity to consent may be either permanent or temporary. The local department shall make a preliminary judgment that the adult lacks capacity to consent before petitioning the court for authorization to provide protective services on an emergency basis pursuant to § 63.2-1609 of the Code of Virginia.

"Legally incapacitated" means that the person has been adjudicated incapacitated by a circuit court because of a mental or physical condition that renders him, either wholly or partially, incapable of taking care of himself or his estate.

"Legitimate interest" means a lawful, demonstrated right to access the requested information pursuant to § 51.5-122 of the Code of Virginia.

"Local department" means any local department of social services in the Commonwealth of Virginia.

"Mandated reporters" means those persons identified in § 63.2-1606 of the Code of Virginia who are required to report to APS when such persons have reason to suspect that an adult is abused, neglected, or exploited or is at risk of abuse, neglect, or exploitation.

"Mental anguish" means a state of emotional pain or distress resulting from verbal or behavioral actions of an alleged perpetrator. The intent of the action is to threaten or intimidate, cause sorrow or fear, humiliate, change behavior, or ridicule the adult. There must be observable or documented evidence that it is the alleged perpetrator's action that has caused the adult's emotional pain or distress.

"Neglect" means that an adult as defined in § 63.2-1603 of the Code of Virginia is living under such circumstances that he is not able to provide for himself or is not being provided such services as are necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. However, no adult shall be considered neglected solely on the basis that such adult is receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical care, provided that such treatment or care is performed in good faith and in accordance with the religious practices of the adult and there is written or oral expression of consent by that adult. Neglect includes the failure of a caregiver or another responsible person to provide for basic needs to maintain the adult's physical and mental health and well-being, and it includes the adult's neglect of self. Neglect includes:

1. The lack of clothing considered necessary to protect an adult's health;

2. The lack of food necessary to prevent physical injury or to maintain life, including failure to receive appropriate food for adults with conditions requiring special diets;

3. Shelter that is not structurally safe; has rodents or other infestations that may result in serious health problems; or does not have a safe and accessible water supply, safe heat source, or sewage disposal. Adequate shelter for an adult depends on the impairments of the adult; however, the adult must be protected from the elements that would seriously endanger his health (e.g., rain, cold, or heat) and could result in serious illness or debilitating conditions;

4. Inadequate supervision by a paid or unpaid caregiver who provides the supervision necessary to protect the safety and well-being of an adult in his care;

5. The failure of persons who are responsible for caregiving to seek needed medical care or to follow medically prescribed treatment for an adult, or the adult has failed to obtain such care for himself. The needed medical care is believed to be of such a nature as to result in physical or mental injury or illness if it is not provided;

6. Medical neglect includes the withholding of medication or aids needed by the adult including dentures, eye glasses, hearing aids, or walkers. It also includes the unauthorized administration of prescription drugs, over-medicating or under-medicating, and the administration of drugs for other than medical reasons, as determined by a licensed health care

professional; or

7. Self-neglect by an adult who is not meeting his own basic needs due to mental or physical impairments. Basic needs refer to such things as food, clothing, shelter, health, or medical care.

"Notification" means informing designated and appropriate individuals or agencies of the local department's action and the individual's rights.

"Preponderance of evidence" means the evidence as a whole shows that the facts are more probable and credible than not. It is evidence that is of greater weight or more convincing than the evidence offered in opposition.

"Report" means an allegation made in writing or orally by any person that an adult is suspected of being abused, neglected, or exploited or at risk of being abused, neglected, or exploited. The report shall be made to the local department or by calling the APS Hotline.

"Responsible person" means an individual who is authorized by state law to make decisions concerning the adult and to receive information about the adult.

"Service plan" means a written plan of action to address the service needs of an adult in order to protect the adult, to prevent future abuse, neglect, or exploitation, and to preserve the autonomy of the adult whenever possible.

"Unreasonable confinement" means the use of physical or chemical restraints, isolation, or any other means of confinement when there is no emergency and for reasons other than the adult's safety or well-being or the safety of others.

"Valid report" means the local department has evaluated the information and allegations of the report and determined that the local department shall conduct an investigation because all of the elements of 22VAC30-100-20 C for a valid report are present.

Statutory Authority

§§51.5-131 and 51.5-148 of the Code of Virginia; 42 USC § 1397(3).

Historical Notes

Former 22VAC40-740-10, derived from VR615-46-01 § 1.1, eff. December 6, 1989; amended, Virginia Register Volume 20, Issue 20, eff. August 1, 2004; Volume 23, Issue 10, eff. March 1, 2007; Volume 25, Issue 23, eff. September 1, 2009; Volume 28, Issue 23, eff. August 15, 2012; amended and renumbered as 22VAC30-100-10, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; amended, Virginia Register Volume 34, Issue 1, eff. October 4, 2017; Volume 37, Issue 19, eff. June 9, 2021.

22VAC30-100-15. (Repealed.)

Statutory Authority

Historical Notes

Former 22VAC40-740-15, derived from Virginia Register Volume 23, Issue 10, eff. March 1, 2007; amended, Virginia Register Volume 25, Issue 23, eff. September 1, 2009; renumbered as

22VAC30-100-15, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; repealed, Virginia Register Volume 43, Issue 2, eff. October 22, 2026.

22VAC30-100-20. Adult protective services intake and investigation.

A. This section establishes the process for APS intake and investigation and provides priority to situations that are most critical.

B. All reports shall be entered into the APS case management information system within 48 hours of its receipt by the local department.

C. The local department shall determine if the report is valid by evaluating the information and allegations in the report. A report is valid if all of the following elements are present:

1. The alleged adult victim is 60 years of age or older or is 18 years of age or older and is incapacitated;

2. There is a specific adult with enough identifying information to locate the adult;

3. Circumstances allege abuse, neglect, or exploitation or risk of abuse, neglect, or exploitation; and

4. The local department receiving the report is the local department of jurisdiction as described in this section.

D. Within 24 hours after receiving a valid report, the local department shall initiate an investigation.

1. To initiate the investigation, the local department shall gather enough information concerning the report to determine if an immediate response is needed to ensure the safety of the alleged victim. Pertinent information may be obtained from the report, case record reviews, contact with the alleged victim, the reporter, friends, neighbors, service providers, or other sources of information.

2. When determining the need for an immediate response, the local department shall consider the following factors:

a. The imminent danger to the adult or to others;

b. The severity of the alleged abuse, neglect, or exploitation;

c. The circumstances surrounding the alleged abuse, neglect, or exploitation; and

d. The physical and mental condition of the adult.

3. A face-to-face contact with the alleged victim shall be made as soon as possible but not later than seven calendar days after the date of the initiation of the investigation unless there are valid reasons that the contact could not be made. Those reasons shall be documented in the APS case management information system. The timing of the interview with the alleged victim should occur in a reasonable amount of time consistent with the local department's consideration of the circumstances in subdivision 2 of this subsection.

E. The purpose of the investigation is to determine whether the adult alleged to be abused, neglected, or exploited or at risk of abuse, neglect, or exploitation is in need of protective services and, if so, to identify those services.

F. The local department shall conduct a thorough investigation of the report.

G. The investigation shall include a visit and private interview with the adult alleged to be abused, neglected, or exploited.

H. The investigation shall include consultation with others who may have knowledge or information about the report.

I. An APS assessment shall be required for all APS investigations and shall be entered into the APS case management information system. The APS assessment shall address the following:

1. Allegations in the report or circumstances discovered during the investigation that meet the definitions of adult abuse, neglect, or exploitation.

2. The extent to which the adult is physically, emotionally, and mentally capable of making and carrying out decisions concerning his health and well-being.

3. How the adult's environment, functional ability, physical and mental health, support system, and income and resources may be contributing factors in the abuse, neglect, or exploitation.

4. The risk of serious harm to the adult.

5. The need for an immediate response by the local department to a valid report.

6. The circumstances and information concerning an interview with the alleged victim, the alleged perpetrator (if known), and any collateral contacts having knowledge of the case.

J. Primary responsibility for the investigation when more than one local department may have jurisdiction under § 63.2-1605 of the Code of Virginia shall be assumed by the local department:

1. Where the subject of the investigation resides when the place of residence is known and when the alleged abuse, neglect, or exploitation occurred in the city or county of residence;

2. Where the abuse, neglect, or exploitation is believed to have occurred when the report alleges that the incident occurred outside the city or county of residence;

3. Where the abuse, neglect, or exploitation was discovered if the incident did not occur in the city or county of residence or if the city or county of residence is unknown and the place where the abuse, neglect, or exploitation occurred is unknown; or

4. Where the abuse, neglect, or exploitation was discovered if the subject of the report is a nonresident who is temporarily in the Commonwealth.

K. An adult's residence is determined by the physical location of the residence. An adult's residence is not determined by the locality to which the adult may pay or previously paid taxes or by whether the adult currently or previously received services or public assistance from another local department.

L. A local department that may have previously provided a service to or conducted an APS investigation on an adult shall assist with the investigation at the request of the local department with primary responsibility for investigation.

M. When an investigation extends into the jurisdiction of another local department, the local department in the other jurisdiction shall assist with the investigation at the request of the local department with primary responsibility for the investigation.

N. When the local department receives information on suspicious deaths of adults, the local department shall immediately notify the appropriate medical examiner and law enforcement.

Statutory Authority

§§51.5-131 and 51.5-148 of the Code of Virginia; 42 USC § 1397(3).

Historical Notes

Former 22VAC40-740-21, derived from Virginia Register Volume 23, Issue 10, eff. March 1, 2007; amended and renumbered as 22VAC30-100-20, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; Volume 37, Issue 19, eff. June 9, 2021.

22VAC30-100-30. (Repealed.)

Statutory Authority

Historical Notes

Former 22VAC40-740-31, derived from Virginia Register Volume 23, Issue 10, eff. March 1, 2007; renumbered as 22VAC30-100-30, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; repealed, Virginia Register Volume 37, Issue 19, eff. June 9, 2021.

22VAC30-100-40. Adult protective services disposition.

A. After investigating the report, the local department shall review and evaluate the facts collected and make a disposition as to whether the adult is in need of protective services and, if so, what services are needed.

B. The disposition that the adult needs protective services shall be based on the preponderance of evidence that abuse, neglect, or exploitation has occurred or that the adult is at risk of abuse, neglect, or exploitation. The local department may be unable to determine the identity of the alleged perpetrator but the inability to determine the identity of the alleged perpetrator shall not prohibit the local department from issuing a disposition reflecting the need for protective services.

C. Possible dispositions.

1. Needs protective services and accepts. This disposition shall be used when:

    a. A review of the facts shows a preponderance of evidence that adult abuse, neglect, or exploitation has occurred or is occurring; and

    (1) The adult consents to receive services pursuant to § 63.2-1610 of the Code of Virginia;

or

(2) Involuntary protective services are ordered by a court pursuant to § 63.2-1609 or Article 1 (§ 64.2-2000 et seq.) of Chapter 20 of Title 64.2 of the Code of Virginia; or

b. A review of the facts shows a preponderance of evidence that the adult is at risk of abuse, neglect, or exploitation and needs protective services in order to reduce that risk; and

(1) The adult consents to receive services pursuant to § 63.2-1610 of the Code of Virginia; or

(2) Involuntary protective services are ordered by a court pursuant to § 63.2-1609 or Article 1 (§ 64.2-2000 et seq.) of Chapter 20 of Title 64.2 of the Code of Virginia.

2. Needs protective services and refuses. This disposition shall be used when:

a. A review of the facts shows a preponderance of evidence that adult abuse, neglect, or exploitation has occurred or is occurring or the adult is at risk of abuse, neglect, and exploitation; and

b. The adult refuses or withdraws consent to accept protective services pursuant to § 63.2-1610 of the Code of Virginia.

3. Need for protective services no longer exists. This disposition shall be used when the subject of the report no longer needs protective services. A review of the facts shows a preponderance of evidence that adult abuse, neglect, or exploitation has occurred. However, at the time the investigation is initiated or during the course of the investigation, the adult who is the subject of the report ceases to be at risk of further abuse, neglect, or exploitation due to the circumstances or actions that have occurred or have been initiated by the adult or an entity or person other than the local department.

4. Unfounded. This disposition shall be used when review of the facts does not show a preponderance of evidence that abuse, neglect, or exploitation occurred or that the adult is at risk of abuse, neglect, or exploitation.

5. Invalid. This disposition shall be used when, after initiating the investigation, it is determined that the report does not meet the criteria for a valid report.

D. The investigation shall be completed and a disposition assigned by the local department within 45 calendar days of the date the report was received. If the investigation is not completed within 45 calendar days, the local department shall document reasons for the delay. The disposition shall be entered into the APS case management information system no later than five working days of the conclusion of the investigation.

E. Notification of the completion of the investigation shall be made in writing and shall be mailed to the reporter within 10 working days of the completion of the investigation.

F. Written notification.

1. The local department shall provide written notification to the alleged perpetrator within 30 calendar days of the conclusion of the investigation when:

a. The disposition (i) needs protective services and accepts, (ii) needs protective services and refuses, or (iii) need for protective services no longer exists; and

b. The local department notified a licensing, regulatory, or legal authority of the disposition pursuant to § 63.2-1605 D of the Code of Virginia.

2. The notification shall include a summary of the evidence and information used by the local department to support the findings of the investigation; inform the alleged perpetrator about his right to review; and if applicable, identify all licensing, regulatory, or legal authorities and the date these authorities were notified.

3. The local department may delay notification to the alleged perpetrator by an additional 30 calendar days at the request of a law-enforcement agency.

4. It is optional for the local department to provide such notification to an adult whom the local department determines to be self-neglecting and is therefore considered to be the alleged perpetrator.

G. The local department shall respect the rights of adults with capacity to consider options offered by the local department and refuse services, even if those decisions do not appear to reasonably be in the best interests of the adult.

Statutory Authority

§§51.5-131 and 51.5-148 of the Code of Virginia; 42 USC § 1397(3).

Historical Notes

Former 22VAC40-740-40, derived from VR615-46-01 § 2.3, eff. December 6, 1989; amended, Virginia Register Volume 20, Issue 20, eff. August 1, 2004; Volume 23, Issue 10, eff. March 1, 2007; Volume 29, Issue 6, eff. December 19, 2012; amended and renumbered as 22VAC30-100-40, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; Volume 37, Issue 19, eff. June 9, 2021; Errata, 38:4 VA.R. 478 October 11, 2021.

22VAC30-100-45. Right to review.

A. Right to review is the process by which the alleged perpetrator may request a hearing to amend the record when the investigation has resulted in a disposition that the local department has communicated to a licensing, regulatory, or legal authority.

B. A written request for an informal hearing with the local department must be received by the local department within 30 calendar days of the date of the local department's written notification that meets the requirements of 22VAC30-100-40 F to be deemed timely.

C. The local department shall conduct an informal hearing within 30 calendar days of receiving the written request for an informal hearing.

D. The director shall preside over the informal hearing. Except for the director, no person whose regular duties include substantial involvement with the local department's adult abuse, neglect, or exploitation investigations shall preside over the hearing.

E. The alleged perpetrator may be represented by counsel. The alleged perpetrator shall be entitled to present the testimony of witnesses, documents, factual data, arguments, or other submissions of proof.

F. The director shall have the authority to sustain, amend, or reverse the findings of the investigation or the disposition.

G. The director shall notify the alleged perpetrator, in writing, of the results of the informal hearing within 30 calendar days of the date of the hearing. The decision of the director shall be final. The results of the informal hearing shall be mailed, certified with return receipt, to the alleged perpetrator. A copy of the final decision shall be mailed to the appropriate licensing, regulatory, or legal authority.

H. If the director reverses the identification of the alleged perpetrator, the local department shall continue to offer services to the adult if the disposition remains needs protective services and accepts.

I. All written findings and actions of the local department or its director, including the decision of the director at the conclusion of the review, are final and shall not be (i) appealable to the Commissioner for Aging and Rehabilitative Services or (ii) considered a final agency action for purposes of judicial review pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

Statutory Authority

§§51.5-131 and 51.5-148 of the Code of Virginia; 42 USC § 1397(3).

Historical Notes

Derived from Virginia Register Volume 37, Issue 19, eff. June 9, 2021.

22VAC30-100-50. Disclosure of adult protective services information.

A. This chapter describes the protection of confidential information including a description of when such information shall be disclosed, when such disclosure of the information is at the discretion of the local department, what information may be disclosed, and the procedure for disclosing the information.

B. Department staff having legitimate interest shall have regular access to APS records maintained by the local department.

C. The following agencies have licensing, regulatory, and legal authority for administrative action or criminal investigations, and they have a legitimate interest in confidential information when such information is relevant and reasonably necessary for the fulfillment of their licensing, regulatory, and legal responsibilities:

1. Department of Behavioral Health and Developmental Services;

2. disAbility Law Center of Virginia;

3. Office of the Attorney General, including the Medicaid Fraud Control Program;

4. Department for Aging and Rehabilitative Services;

5. Department of Health, including the Office of Licensure and Certification and the Office of the Chief Medical Examiner;

6. Department of Medical Assistance Services;

7. Department of Health Professions;

8. Department for the Blind and Vision Impaired;

9. Department of Social Services, including the Division of Licensing Programs;

10. The Office of the State Long-Term Care Ombudsman and local ombudsman;

11. Law-enforcement agencies;

12. Medical examiners;

13. Adult fatality review teams;

14. Commonwealth's attorneys; and

15. Any other entity deemed appropriate by the commissioner or director that demonstrates a legitimate interest.

D. The local department shall disclose all relevant information to representatives of the agencies identified in subsection C of this section except the identity of the person who reported the abuse, neglect, or exploitation unless the reporter authorizes the disclosure of his identity or the disclosure is ordered by the court.

E. The local department shall refer any appropriate matter and all relevant documentation to the appropriate licensing, regulatory, or legal authority for administrative action or criminal investigation.

F. Local departments may release information to the following persons when the local department has determined the person making the request has legitimate interest in accordance with § 51.5-122 of the Code of Virginia and the release of information is in the best interest of the adult:

1. Representatives of public and private agencies including community services boards, area agencies on aging, and local health departments requesting disclosure when the agency has legitimate interest;

2. A physician or other licensed health care professional who is treating an adult whom he reasonably suspects is abused, neglected, or exploited;

3. The adult's legally appointed guardian or conservator;

4. A guardian ad litem who has been appointed for an adult who is the subject of an APS report;

5. A family member who is responsible for the welfare of an adult who is the subject of an APS

report;

6. An attorney representing a local department in an APS matter;

7. The Social Security Administration; or

8. Any other entity that demonstrates to the commissioner or director that legitimate interest is evident.

G. Local departments are required to disclose certain requested information under the following circumstances:

1. When disclosure is ordered by a court;

2. When a person has made an APS report and an investigation has been completed; or

3. When a request for access to information is made pursuant to the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq. of the Code of Virginia).

H. Any or all of the following specific information may be disclosed at the discretion of the local department to agencies or persons specified in subsection F of this section:

1. Name, address, age, race, and gender of the adult who is the subject of the request for information;

2. Name, address, age, race, and gender of the person who is alleged to have perpetrated the abuse, neglect, or exploitation;

3. Description of the incident of abuse, neglect, or exploitation;

4. Description of the adult's medical conditions to the extent known;

5. Disposition of the APS report; and

6. The protective service needs of the adult.

I. The identity of the person who reported the suspected abuse, neglect, or exploitation shall be held confidential unless the reporter authorizes the disclosure of his identity or disclosure is ordered by the court.

J. Agencies or persons who receive confidential information pursuant to subsection G of this section shall provide the following assurances to the local department:

1. The purpose for which information is requested is related to the protective services goal in the service plan for the adult;

2. The information will be used only for the purpose for which it is made available; and

3. The information will be held confidential by the department or individual receiving the information except to the extent that disclosure is required by law.

K. Methods of obtaining assurances. Any one of the following methods may be used to obtain assurances required in subsection J of this section:

1. Agreements between local departments and other community service agencies that provide blanket assurances required in subsection J of this section for all APS cases; or

2. State-level agreements that provide blanket assurances required in subsection C of this section for all APS cases.

L. Notification that information has been disclosed. When information has been disclosed pursuant to this section, notice of the disclosure shall be given to the adult who is the subject of the information or to his legally appointed guardian. If the adult has given permission to release the information, further notification shall not be required.

Statutory Authority

§§51.5-131 and 51.5-148 of the Code of Virginia; 42 USC § 1397(3).

Historical Notes

Former 22VAC40-740-50, derived from VR615-46-01 § 2.4, eff. December 6, 1989; amended, Virginia Register Volume 20, Issue 20, eff. August 1, 2004; Volume 23, Issue 10, eff. March 1, 2007; Volume 25, Issue 23, eff. September 1, 2009; Volume 28, Issue 23, eff. August 15, 2012; renumbered as 22VAC30-100-50, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; amended, Virginia Register Volume 34, Issue 1, eff. October 4, 2017; Volume 37, Issue 19, eff. June 9, 2021.

22VAC30-100-60. Opening a case for service provision.

A. The local department shall offer a range of services to the adult when the disposition is needs protective services and accepts as defined in 22VAC30-100-40.

B. Application for services.

1. The local department shall obtain an application when the disposition is needs protective services and accepts.

2. Representatives who may complete and sign an application on behalf of an adult who needs protective services include:

a. The adult's legally appointed guardian or conservator;

b. The adult's responsible person; or

c. The local department.

C. A case shall be opened for protective services when:

1. The service needs are identified;

2. The disposition is needs protective services and accepts; and

3. The adult or the adult's representative as identified in subdivision B 2 of this section agrees to accept protective services or protective services are ordered by the court.

D. A service plan that is based on the investigative findings and the adult's need for protective

services shall be developed. The service plan is the basis for the activities that the local department, the adult, and other individuals will undertake to protect the adult. The service plan shall be documented in the APS case management information system.

E. Implementation of the service plan. Implementation of the service plan is the delivery of the services necessary to provide adequate protection to the adult. The services may be delivered directly, through purchase of service, through informal support, or through referral. The continuous monitoring of the adult's progress and the system's response is a part of the implementation.

F. Local departments are required to provide services beyond the investigation to the extent that federal or state matching funds are made available.

Statutory Authority

§§51.5-131 and 51.5-148 of the Code of Virginia; 42 USC § 1397(3).

Historical Notes

Former 22VAC40-740-60, derived from VR615-46-01 § 2.5, eff. December 6, 1989; amended, Virginia Register Volume 20, Issue 20, eff. August 1, 2004; Volume 23, Issue 10, eff. March 1, 2007; renumbered as 22VAC30-100-60, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; Volume 37, Issue 19, eff. June 9, 2021.

22VAC30-100-70. Civil penalty for nonreporting.

A. The commissioner may impose civil penalties when it is determined that a mandated reporter failed to report suspected adult abuse, neglect, or exploitation pursuant to § 63.2-1606 of the Code of Virginia.

B. Civil penalties for law-enforcement officers shall be determined by a court of competent jurisdiction, at its discretion.

Statutory Authority

§§51.5-131 and 51.5-148 of the Code of Virginia; 42 USC § 1397(3).

Historical Notes

Former 22VAC40-740-70, derived from Virginia Register Volume 23, Issue 10, eff. March 1, 2007; amended and renumbered as 22VAC30-100-70, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; Volume 37, Issue 19, eff. June 9, 2021.

22VAC30-100-80. Imposition of civil penalty.

A. Local department review and recommendation.

1. When a director determines that a mandated reporter failed to report as required by § 63.2-1606 of the Code of Virginia, the director shall prepare a written statement of fact on a form provided by the department concerning the mandated reporter's failure to report. The director also shall prepare a letter notifying the mandated reporter of the intent to request imposition

of a civil penalty. The letter shall state the mandated reporter's right to submit a written statement to the commissioner concerning the mandated reporter's failure to report. The date of the director's notification shall be the date of the letter to the mandated reporter. Any supporting documentation that the director considered in requesting the imposition of a civil penalty shall be provided to the mandated reporter. The letter, statement of facts, and any supporting documentation that the director considered in requesting the imposition of a civil penalty shall be sent to the mandated reporter by registered or certified mail, return receipt requested.

2. At such time as the letter required under subdivision 1 of this subsection is sent, the director shall send a letter to the commissioner requesting the imposition of a civil penalty on the mandated reporter for failure to report. The statement of fact and the letter to the mandated reporter shall accompany the letter to the commissioner. Any supporting documentation that the director considered in requesting the imposition of a civil penalty shall be provided to the commissioner.

B. Statement from mandated reporter. Within 45 calendar days from the date of the director's notification to the mandated reporter of intent to request the imposition of a civil penalty, the mandated reporter may submit a written statement concerning his failure to report to the commissioner. Statements received by the commissioner after 45 calendar days will be deemed untimely and will not be considered.

C. Review by the commissioner's designee.

1. The commissioner's designee shall review the director's statement of facts, the mandated reporter's written statement, and any supporting documentation provided by the director in determining whether to impose a civil penalty.

2. In the case of law-enforcement officers who are alleged not to have reported as required, the commissioner or the commissioner's designee shall forward a recommendation to the court of competent jurisdiction.

3. Within 30 calendar days after the deadline for the commissioner's receipt of the mandated reporter's written statement, the commissioner's designee shall issue a final decision to the mandated reporter in writing, addressing whether a civil penalty will be imposed. The final decision shall include specifics of the violation charged, the reasons for the imposition of the civil penalty, and the amount of the penalty. The date of the final decision is the date the final decision is sent to the mandated reporter. The commissioner's designee shall also send a copy of the final decision to the director who recommended the imposition of the civil penalty.

D. Reconsideration of a final decision imposing a civil penalty shall be conducted in accordance with § 2.2-4023.1 of the Code of Virginia. The commissioner's review on reconsideration shall not include testimony, statements, or documentary submissions that were not included in the director's intent to request imposition of a civil penalty or presented to the commissioner or the commissioner's designee prior to issuance of the final decision.

E. Any mandated reporter has the right to appeal the decision to impose a civil penalty in accordance with § 2.2-4026 of the Code of Virginia and pursuant to Part 2 A of the Rules of the

Supreme Court of Virginia.

Statutory Authority

§§51.5-131 and 51.5-148 of the Code of Virginia; 42 USC § 1397(3).

Historical Notes

Former 22VAC40-740-80, derived from Virginia Register Volume 23, Issue 10, eff. March 1, 2007; renumbered as 22VAC30-100-80, Virginia Register Volume 30, Issue 1, eff. October 9, 2013; Volume 37, Issue 19, eff. June 9, 2021.