

# Introduction to Older Adult Protective Services in Pennsylvania

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## Module Overview

The Older Adult Protective Services Act (OAPSA) demonstrates Pennsylvania's commitment to addressing elder abuse, neglect, exploitation and abandonment. OAPSA provides the framework for delivering a system of protective services to older Pennsylvanians who are unable to protect themselves from abuse, neglect, exploitation and abandonment. This unit sets the foundation for understanding the protective services system in Pennsylvania as prescribed by OAPSA.

## Learning Objectives

By the end of this module, you will

- Understand Pennsylvania's commitment to victims of abuse, neglect, exploitation and abandonment provided through the Older Adult Protective Services Act (OAPSA).
- Know the OAPSA definitions of abuse, neglect and exploitation.
- Know the OAPSA definition of protective services.
- Know current statistical trends of abuse, neglect, exploitation and abandonment in Pennsylvania.
- Know the rights of protective service clients assured through OAPSA.
- Know Amendments to OAPSA and other Pennsylvania legislation that address abuse, neglect, exploitation and abandonment.

## Study Steps

1. Review the content of this section.
2. Review the Older Adult Protective Services Act.
3. Review the most recent Older Adult Protective Services Annual Report published by the Department of Aging.
4. Complete the self-evaluation quiz and use the answer key to review your answers.
5. Review the content of any of the questions you answered incorrectly.
6. Plan with your supervisor to complete transfer of learning activities.

**Content**

Read the module, Introduction to Older Adults Protective Services in Pennsylvania.

**Introduction**

There is no doubt that the social problem of elder abuse, neglect, exploitation and abandonment will continue to increase as the population grows older during a demographic phase popularly referred to as the graying of America. One in eight people, or approximately 13 percent of the United States population, are currently over 65 years of age. By 2025, it is estimated that this number will grow to one in four. Pennsylvania's population in the 2000 Census was 12,406,292 with 19.8% above the age of 60. Pennsylvania is second in the United States for per capita of people over the age of 65 and fifth in the United States in absolute number.

In Pennsylvania, the Older Adults Protective Services Act (OAPSA) provides the legal framework for addressing elder abuse, neglect, exploitation and abandonment. OAPSA was signed on November 6, 1987 and went into effect on July 1, 1988. The Department of Aging completed program regulations on November 26, 1988. OAPSA is designed to provide services and protect individuals 60 years of age and above who are unable to protect themselves from abuse, neglect, exploitation and abandonment. The following section will help you to better understand the role of OAPSA in helping to protect Pennsylvania citizens from this National epidemic.

**Trends of Abuse in Pennsylvania**

1. Victims of abuse in Pennsylvania tend to be over the age of 75 (67%) and female (64%). Most victims live on their own or in a caretaker's home (66%). But reports on residents of licensed long-term care facilities are alarmingly high (27%), given that care giving facilities are staffed by trained and professional caregivers and assumed to be safe environments.
2. Abusers are mostly middle aged (ages 30 to 59, 46%) and are evenly distributed among males and females. Family members are frequently the abuser. Sons and daughters are more likely to be the abuser than a spouse. Neglect (self and caregiver neglect) is the leading cause for protective service investigations.
3. There were 13,006 reports of need for protective services received by Area Agencies on Aging in 2004-05. Nursing homes and family members most frequently are the reporting service.
4. Out of the 13,006 unduplicated reports of need, 2,719 (21%) were substantiated. Types of abuse represented in substantiation are self-neglect (34%), caregiver neglect (18%), physical abuse (13%), emotional abuse (8%) and sexual abuse (3%), exploitation (12%) and abandonment (.5%).

5. Services to the abused person most often provided are care management, home delivered meals, legal assistance, personal care, transportation, overnight shelter, home support, home health, and day care (Older Adults Protective Services Annual Report, 2005).

### **Pennsylvania's Commitment to Older Adults through OAPSA**

1. Provide access to services necessary to protect the health, safety and welfare of any older adult (age 60 and older) who lacks the capacity to protect themselves and is at imminent risk of abuse, neglect, exploitation or abandonment;
2. Provide services that safeguard rights of incapacitated older persons while protecting them from abuse, neglect, exploitation and abandonment;
3. Provide for the detection and reduction, correction or elimination of abuse, neglect, exploitation and abandonment;
4. Establish a program of protective services for older adults who need them; and
5. Provide for an ongoing campaign designed to inform and educate older adults, professionals and the general public about the need for availability of protective services. (35 P.S. § 10225.102).

### **Foundation for Protective Services under OAPSA**

1. Protective services include activities, resources, or supports provided to older adults under the Act to detect, reduce, prevent or eliminate abuse, neglect, exploitation or abandonment (35 P.S. § 10225.103).
2. OAPSA defines an "older person in need of protective services" as an incapacitated person in the Commonwealth 60 years of age or older who is unable to obtain or perform services necessary to maintain physical or mental health, for whom there is no responsible caretakers and who is at imminent risk of his person or property (35 P.S. § 10225.103).
3. OAPSA assured that uniform regulations and policies throughout the Commonwealth provide for consistency in providing the services of reporting both voluntary and mandatory, investigations, access to persons and records, involuntary emergency intervention, individual rights, provision of services and confidentiality.
4. OAPSA requires a system that allows for reporting and the initiation of investigations 24-hours per day 365 days per year.
5. OAPSA demands that the protective services system safeguards the rights of older people while providing the protective services needed through a system of

screening and referral by protective service investigators. Individual rights include:

- a. Protective services clients have the right to know that a report has been made and be provided with a brief summary of the nature of the report.
- b. Protective services clients may request and be provided with additional information contained in the report with the exception of the identity of the reporter.
- c. Protective services clients can refuse to accept services offered by an Area Agency on Aging.
- d. Protective services clients can appeal to the Department of Aging any denial of services by an AAA.
- e. Protective services clients must have the opportunity to consult legal counsel when an AAA attempts to provide services under an emergency court order.
- f. Protective services clients may utilize the Protection From Abuse Act (35 P.S. § 10225.308).

### **Responsibilities of Area Agency on Aging under OAPSA**

1. All AAAs must submit, as part of their annual plan to the Department of Aging, a section describing their local implementation of OAPSA, provision of protective services, and protection of confidential information (35 P.S. § 10225.301).
2. All AAAs must maintain a 24-hour a day, 365 day per year system to receive reports of older adults who are suspected of being abused, neglect, exploited or abandoned (35 P.S. § 10225.301).
3. All AAAs are responsible to provide qualified protective service investigators to complete an investigation of all protective service reports, conduct comprehensive client assessments and develop service plans for persons found to be in need of protective services (35 P.S. § 10225.303).
4. All AAAs must conduct a local campaign to raise public awareness of the existence of abuse, neglect, exploitation and abandonment of older adults and to provide information on how to recognize when a person needs protective services and how to report that need to the AAA.

### **Amendments to OAPSA and other legislation that protect older Pennsylvanians:**

1. Act 28 of 1995 (18 Pa. C.S.A § 2713) was created to protect care-dependent persons from abuse or neglect. The Act prohibits the intentional, knowing, or

reckless causing of bodily injury or serious bodily injury by failing to provide treatment, care, goods, or services, necessary to preserve the health, safety or welfare of a care-dependent person. It also prohibits the use of restraints on a care-dependent person whether physical or chemical. The Act applies to caretakers who have an obligation to care for a care-dependent person for monetary consideration. Perpetrators who cause bodily injury can be charged with a misdemeanor of the first degree and those who cause serious bodily injury can be charged with a felony of the first degree.

2. Act 169 of 1996 (35 P.S. § 10225.501, *et. seq.*) was an amendment to OAPSA mandating criminal background checks for persons who are employed in a capacity where they will have direct contact or unsupervised access to the personal living quarters of a person who receives care, services or treatments from a facility (i.e. long-term care nursing facility, personal care home, home health care agency).
3. Act 13 of 1997 (35 P.S. § 10225.501, *et. seq.*) was an amendment to OAPSA that mandates employees or administrators of certain facilities to report abuse when they have reason to believe that a care recipient is abused. Reporting is done to the Area Agency on Aging. Act 13 also mandates that when the abuse involves sexual abuse, serious physical injury, serious bodily injury or a suspicious death, reporting must also be done to law enforcement and the Department of Aging.

Each of these laws will be discussed in greater detail in later sections of this manual.

### **OAPSA Definitions of Abuse, Neglect & Exploitation:**

1. The following definitions of abuse, neglect, exploitation and abandonment are provided in OAPSA (35 P.S. § 10225.103).
2. **Abuse** is defined as the occurrence of one or more of the following acts:
  - a. The infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain or mental anguish;
  - b. The willful deprivation by a caregiver of goods or services, which are necessary to maintain physical or mental health;
  - c. Sexual harassment rape or abuse, as defined in the Protection From Abuse Act (23 Pa.C.S.A., § 6101-6117).
3. **Neglect** is defined as the failure to provide for oneself or the failure of a caregiver to provide goods or services essential to avoid a clear and serious threat to physical or mental health. An older adult who does not consent to the provision of protective services will not be found to be neglected solely on the grounds of

environmental factors such as inadequate housing, furnishings, income, clothing or medical care which are beyond the control of the older adult or the caregiver.

4. **Exploitation** is defined as an act or course of conduct by a caregiver or other person against an older adult or an older adult's resources, without the informed consent of the older adult or with consent obtained through misrepresentation, coercion or threats of force, that results in monetary, personal or other benefit, gain or profit for the perpetrator or monetary or personal loss to the older adult.
5. **Abandonment** is defined as the desertion of an older adult by a caregiver.

### **Role of the Protective Services Worker**

As a protective services investigator, your role is to represent Pennsylvania's commitment to provide safety to each client that you encounter. You must do so within the framework of OAPSA (6 Pa. Code §15.121-15.127).

- a. Receive Reports of Need
- b. Conduct Protective Services Investigations
- c. Assess the needs of protective services consumers
- d. Develop and coordinate the implementation of service plans for protective services clients.

This involves special skills in assessment and investigation which will be discussed in this manual. You must apply these skills in a manner that is consistent with the philosophy of OAPSA which puts clients' rights as a priority factor in the development of protective services plans. The job is challenging, but OAPSA provides you and your agency the ability to make a difference in the lives of abused, neglected, exploited and abandoned older Pennsylvanians.

<b>Self-Evaluation Quiz</b>
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Answer the following questions.

1. OAPSA requires the Area Agencies on Aging to provide a system that allows for the reporting of abuse, neglect, exploitation and abandonment only during normal business hours.

T                      F

2. Self-neglect is not included in the definition of neglect in OAPSA.

T                      F

3. At what age does a person become eligible for protective services under OAPSA?

4. Identify three rights for protective service clients.

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

5. What is the purpose of Act 13?

6. Providing public education about abuse, neglect, exploitation and abandonment is mandated by OAPSA.

T                      F

7. Name the four categories of victimization under OAPSA

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

8. Persons who are being physically abused by a caregiver do not have the right to refuse protective services.

T                      F

Review your answers with the answer key at the end of this section.

### Transfer of Learning Activities

Review a protective services investigation file:

- a. Is the client of age of eligibility?
- b. What is the cause of the investigation
  - i. Abuse
  - ii. Neglect
  - iii. Self-neglect
  - iv. Financial exploitation
  - v. Abandonment
- c. Does the identified abuse fit the definition defined in the Older Adult Protective Services Act?

### References

Older Adults Protective Services Act: Unconsolidated Pennsylvania Statutes – Health Safety – Title 35.

Pennsylvania Department of Aging. Older Adults Protective Services Annual Report 2004-2005.

### Resources

Pennsylvania Department of Aging Web-Site: [www.aging.state.pa.us/](http://www.aging.state.pa.us/)

<b>ANSWER KEY</b> <b>Introduction</b>
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1. OAPSA requires the Area Agencies on Aging to provide a system that allows for the reporting of abuse, neglect, exploitation and abandonment only during normal business hours. **False.** *OAPSA requires a system that allows for reporting and the initiation of investigations 24-hours per day 365 days per year.*
2. Self-neglect is not included in the definition of neglect in OAPSA. **False.** *Neglect is defined as the failure to provide for oneself or the failure of a caregiver to provide goods or services essential to avoid a clear and serious threat to physical or mental health.*
3. At what age does a person become eligible for protective services under OAPSA? *60 years of age and older. OAPSA defines an older person in need of protective services as an incapacitated person in the Commonwealth 60 years of age or older who is unable to obtain or perform services necessary to maintain physical or mental health, for whom there is no responsible caretakers and who is at imminent risk of his person or property (35 P.S. § 10225.103).*
4. Identify three rights for protective service clients.

*OAPSA demands that the protective services system safeguards the rights of older people while providing the protective services needed through a system of screening and referral by protective service investigators. Individual rights include:*

- i. Protective services clients have the right to know that a report has been made and be provided with a brief summary of the nature of the report.*
- ii. Protective services clients may request and be provided with additional information contained in the report with the exception of the identity of the reporter.*
- iii. Protective services clients can refuse to accept services offers by an Area Agency on Aging.*
- iv. Protective services clients can appeal to the Department of Aging any denial of services by an AAA.*
- v. Protective services clients must have the opportunity to consult legal counsel when an AAA attempts to provide services under an emergency court order.*

- vi. *Protective services clients may utilize the Protection From Abuse Act (35 P.S. § 10225.308).*
5. What is the purpose of Act 13? *Act 13 of 1997 was an amendment to OAPSA that mandates employees or administrators of certain facilities to report abuse when they have reason to believe that a care recipient is abused.*
  6. Providing public education about abuse, neglect, exploitation and abandonment is mandated by OAPSA. **True.** *Provide for an ongoing campaign designed to inform and educate older adults, professionals and the general public about the need for availability of protective services. (35 P.S. § 10225.102).*
  7. Name the four categories of victimization under OAPSA. *Abuse, Neglect, Exploitation, and Abandonment.*
  8. Persons who are being physically abused by a caregiver do not have the right to refuse protective services. **False.** *Protective services clients can refuse to accept services offers by an Area Agency on Aging.*