



# State of Louisiana

Department of Health and Hospitals  
Office of Aging and Adult Services

November 5, 2014

## MEMORANDUM

**TO:** The Honorable Bobby Jindal, Governor, State of Louisiana  
The Honorable John A. Alario, President, Louisiana Senate  
The Honorable Chuck Kleckley, Speaker of the House  
The Honorable James D. "Buddy" Caldwell, Attorney General, State of Louisiana  
The Honorable David Heitmeier, Chairman, Senate Committee on Health and Welfare  
The Honorable Scott Simon, Chairman, House Committee on Health and Welfare  
The Honorable Jack Donahue, Chairman, Senate Finance Committee  
The Honorable James R. "Jim" Fannin, Chairman, House Appropriations Committee

**FROM:** Kathy H. Kliebert  
Secretary

*Approved for*

**RE:** Notice of Office of Aging and Adult Services Rulemaking

In accordance with the Administrative Procedure Act (R.S. 49:950 et seq.) as amended, we are submitting the following rulemaking documents for the Office of Aging and Adult Services which will appear in the November 20, 2014 edition of the *Louisiana Register*.

## NOTICE OF INTENT

**1. Adult Protective Services Program:** The Department of Health and Hospitals, Office of Aging and Adult Services proposes to amend Adult Protective Services to include persons age 60 and older. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Pursuant to Act 13 of the 2012 Regular Session, the operation of the Adult Protective Services (APS) program for persons age 60 and older, commonly referred to as Elderly Protective Services (EPS), was transferred to the Department of Health and Hospitals, Office of Aging and Adult Services. Since July 1, 2012, the Office of Aging and Adult Services (OAAS) was charged with operating an adult protective services program under a Memorandum of Understanding between the Department of Health and Hospitals and the Governor's Office Community Programs.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this

proposed Rule will have a neutral effect on the ability of the family to perform its functions since the rule only authorizes the transfer of operation to the Office of Aging and Adult Services, Adult Protective Services to include persons age 60 and older.

NOTICE OF INTENT

Department of Health and Hospitals  
Office of Aging and Adult Services  
Division of Adult Protective Services

Adult Protective Services Agency

(LAC 48:XIII.17101-17125)

The Department of Health and Hospitals, Office of Aging and Adult Services, Division of Adult Protective Services proposes to amend LAC 48XIII.17101-17125 under the Adult Protective Services Program as authorized by R.S. 15:1501-1511. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq. Pursuant to Act 13 of the 2012 Regular Session, the operation of the Adult Protective Services (APS) program for persons age 60 and older, commonly referred to as Elderly Protective Services (EPS), was transferred to the Department of Health and Hospital (DHH), Office of Aging and Adult Services (OAAS). Since -July 1, 2012, OAAS was charged with operating an adult protective services program under a Memorandum of Understanding between the Department of Health and Hospitals and the Governor's Office Community Programs.

A regulatory flexibility analysis pursuant to R. S. 49:965.6 has been conducted. It has been determined that the promulgation of this rule will not have an adverse impact on small business.

Title 48

PUBLIC HEALTH—General

Part 1 General Administration

**Subpart 13. Protective Services Agency**

**Chapter 171. Division of Adult Protective Services**

**§17101. Statement of Policy**

A. The Department of Health and Hospitals is committed to preserving and protecting the rights of individuals to be free from abuse, neglect, exploitation, or extortion.

B. In pursuit of this commitment and in accordance with the provisions of R.S. 14:403.2, and R.S. 15:1501-15:1511 the Department of Health and Hospitals names the Office of Aging and Adult Services, Division of Adult Protective Services (APS) as the Protective Services Agency in order to provide protection to persons ages 18-59 with mental, physical, or developmental disabilities that substantially impair the person's ability to provide adequately for his/her own protection.

C. The primary function of Adult Protective Services is to investigate and/or assess reports of abuse, neglect, exploitation, or extortion consistent with the criteria contained in R.S. 14.403.2 and R.S. 15:1501-15:1511 to determine if the situation and condition of the subject of the report warrant further action and, if so, to prepare and implement a plan aimed at remedying or improving the situation. Adult Protective Services staff will provide protective services to each individual in need of protection until that person's

situation has stabilized, that person is no longer at risk from the situation described in the report, or that person, having demonstrated the capacity to do so, refuses assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R. S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:434 (April 1994), amended LR 27:312 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:759 (April 2010), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 41:

### **§17103. Goals and Objectives**

A. The primary goal of the OAAS Division of Adult Protective Services is to prevent, remedy, halt, or hinder abuse, neglect, exploitation, or extortion of individuals in need of services as defined in this regulation and consistent with the provisions of R.S. 14:403.2 and R.S. 15:1501-15:1511. In order to achieve this goal, Adult Protective Services shall pursue the following objectives:

1. to establish a system of mandatory reporting, intake, classification, timely investigation and response to allegations of abuse, neglect, exploitation, and extortion;

2. to provide protective services to the individual while assuring the maximum possible degree of self-determination and dignity;

3. in concert with other community service and health service providers, to arrange and facilitate the process toward developing individual and family capacities to promote safe and caring environments for individuals in need of protection;

4. to secure referral or admission to appropriate alternative living arrangements if all efforts to maintain the individual in his/her own home fail;

5. to assist individuals in need of protection to maintain the highest quality of life with the least possible restriction on the exercise of personal and civil rights;

6. to educate the general public, as well as private and public service agencies, regarding the Protective Services Agency and the requirements of R.S. 14:403.2.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:435 (April 1994), amended LR 27:313 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:760 (April 2010).

## §17105. Definitions

A. For the purposes of this Chapter, the following definitions shall apply.

"Abandonment" the desertion or willful forsaking of an adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody.

"Abuse" the infliction of physical or mental injury, or actions which may reasonably be expected to inflict physical injury, on an adult by other parties, including but not limited to such means as sexual abuse, abandonment, isolation, exploitation, or extortion of funds or other things of value. In determining whether an injury is sufficient to endanger the health, self-determination, or emotional well-being of the adult, the following criteria shall be considered:

a. with respect to physical injury, the injury must be sufficient to ordinarily require professional medical intervention beyond first-aid, or, the behavior in question must be sufficient to create a potential injury of that severity;

b. with respect to mental injury, the injury must be sufficient to ordinarily require mental health services of a clinical nature, or, the behavior in question must be sufficient to create a potential injury of that severity;

c. with respect to isolation, acts of isolation used in a manner where the individual is alone in a room/area from which he/she cannot leave, constitute behavior which has the potential to result in mental injury or unwarranted restriction of the adult's self-determination;

d. with respect to use of restraints, inappropriate and unauthorized use of any chemical and/or mechanical restraints, or any type of restraint which prevents the free movement of either the arms or legs and which immobilizes the individual, shall represent potential physical or mental injury and possible violation of an individual's self-determination. Chemical and/or mechanical restraints ordered by a physician and used in accordance with medical guidelines shall not constitute abuse.

"Adult" any individual 18 years of age or older ~~and under the age of 60,~~ or an emancipated minor who, due to a physical, mental, or developmental disability is unable to manage his own resources, carry out the activities of daily living, or protect himself from abuse, neglect or exploitation.

"Adult Protective Services" (APS) that division within the Department of Health and Hospitals' Office of Aging and Adult Services determined by the department as the Protective Services Agency for any individual ~~between the ages of 18 years and older and 59 years of age~~ in need of adult protective services , pursuant to the provisions of R.S. 14:403.2 and R.S. 15:1501-15:1511, to provide protection to adults with disabilities as defined herein.

"Capacity to Consent" the ability to understand and appreciate the nature and consequences of making decisions concerning one's person, including but not limited to provisions for health or mental health care, food, shelter, clothing, safety, or financial affairs. This determination may be based on assessment, or investigative findings, observation or medical or mental health evaluations.

"*Caregiver*" any person or persons, either temporarily or permanently responsible for the care of a physically or mentally disabled adult. Caregiver includes but is not limited to adult children, parents, relatives, neighbors, day-care personnel, adult foster home sponsors, providers of substitute family care, personnel of public and private institutions and facilities, adult congregate living facilities, and nursing homes which have voluntarily assumed the care of an adult as defined herein have assumed voluntary residence with an individual, or have assumed voluntary use or tutelage of an individual's assets, funds, or property, and specifically shall include city, parish, or state law enforcement agencies.

"*Emancipated Minor*" a person under the age of 18 who administers his/her own affairs or who is relieved of the incapacities which normally attach to minority. Minors can be emancipated by notarial act, marriage, or judicial pronouncement.

"*Exploitation*" the illegal or improper use or management of an adult's funds, assets, or property, or the use of an adult's power of attorney or guardianship for one's own profit or advantage.

"*Extortion*" the acquisition of a thing of value from an unwilling or reluctant adult by physical force, intimidation, abuse, neglect, or official authority.

"*Isolation*" includes:

a. intentional acts committed for the purpose of preventing, and which do serve to prevent, an adult from having contact with family, friends, or concerned persons. This shall not be construed to affect a legal restraining order;

b. intentional acts committed to prevent an adult from receiving his mail or telephone calls;

c. intentional acts of physical or chemical restraint of an adult committed for the purpose of preventing contact with visitors, family, friends, or other concerned persons;

d. intentional acts which restrict, place, or confine an adult in a restricted area for the purposes of social deprivation or preventing contact with family, friends, visitors, or other concerned persons. However, medical isolation prescribed by a licensed physician caring for the adult shall not be included in this definition.

"Neglect" the failure by the caregiver responsible for an adult's care or by other parties, to provide the proper or necessary support or medical, surgical, or any other care necessary for his well-being. No adult who is being provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall, for that reason alone, be considered to be neglected or abused.

"Protective Services" those activities developed to assist individuals in need of protection. Protective services include but are not limited to: receiving and screening information on allegations of abuse, neglect, exploitation or extortion; conducting investigations and/or assessments of those allegations to determine if the situation and condition of the alleged victim warrants corrective or other action, preparing a plan using available community resources aimed at remedying or reducing the risk from abuse, neglect, exploitation or extortion, providing case management, as needed, to assure stabilization of the situation, and arranging of or making

referrals for needed services and/or legal assistance to initiate any necessary remedial action.

*"Regional Coordinating Council"* a regionally constituted committee composed of representatives of both public and private agencies providing services, with the objectives of identifying resources, increasing needed supportive services, avoiding duplication of effort, and assuring maximum community coordination.

*"Self-Neglect"* the failure, either by the adult's action or inaction, to provide the proper or necessary support or medical/surgical or other care necessary for his/her well-being. No individual who is provided treatment in accordance with a recognized religious method of healing in lieu of medical treatment shall, for that reason alone, be considered to be self-neglected.

*"Sexual Abuse"* abuse of an adult, when any of the following occur.

a. The adult is forced, or otherwise coerced by a person into sexual activity or contact.

b. The adult is involuntarily exposed to sexually explicit material, sexually explicit language, or sexual activity or contact.

c. The adult lacks the capacity to consent, and a person engages in sexual activity or contact with that adult.

AUTHORITY NOTE;

Promulgated in accordance with R.S.  
36:254, R.S. 14:403.2 and R.S.  
15:1501-15:1511

HISTORICAL NOTE:

Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20:435 (April 1994), amended LR 27:313 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:760 (April 2010), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, Division of Adult Protective Services, LR 37:904 (March 2011), LR 37:904 (March 2011), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 41:

**§17107. Eligibility for Services**

A. The protection of this Rule extends to any adult as defined by law, ~~18-59~~ years of age and older or emancipated minors, living in unlicensed community settings, either independently or with the help of others, who is alleged to be abused, neglected, exploited, or extorted.

B. There is no financial eligibility requirement for services provided by Adult Protective Services.

AUTHORITY NOTE:

Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:436 (April 1994), amended LR 27:313 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:761 (April 2010).

### **§17109. Reporting**

A. 1. Any person having cause to believe that an individual's physical or mental health or welfare has been or may be further adversely affected by abuse, neglect, exploitation, or extortion shall report that knowledge or belief. These reports can be made to:

- a. Adult Protective Services; and/or,
- b. any local or state law enforcement agency.

2. Reports of abuse, neglect, exploitation and extortion shall be processed through the DHH Office of Aging and Adult Services, Division of Adult Protective Services' central intake system. Reports should be made/forwarded to: Adult Protective Services, P.O. Box ~~3518~~2031, Bin #~~144~~, Baton Rouge, LA 70821. ~~The local telephone number is (225) 342-9057. The~~ state-wide, toll-free telephone number is 1-800-898-4910.

B. Intake. Incident reports received by APS shall be screened to determine eligibility, and shall be assigned a priority status for investigation as described in §17121 of this Chapter. When reports are not accepted by APS, the reporter shall be advised why his/her report was rejected for

investigation. Such reports will be referred to other social, medical, and law enforcement agencies, as deemed appropriate or required by law.

C. Priorities. In order to assure the timely delivery of protective services and to eliminate the potential danger of prolonging an abusive situation, a priority system for case response has been established. At the time a report of abuse is received in Adult Protective Services, the report will be prioritized and assigned for investigation. In making assignments, the following categories will be used.

1. Priority One

a. Priority One reports are those which allege the individual in need of protection is abused, neglected, exploited, or extorted, and has suffered or is at imminent risk of suffering serious harm or serious physical injury which, if untreated, may result in permanent physical damage or death.

b. Examples of Priority One reports include but are not limited to head injuries, spinal injuries, severe cuts, broken limbs, severe burns, and/or internal injuries and sexual abuse where there is danger of repeated abuse, situations where medical treatment, medications or nutrition necessary to sustain the individual are not obtained or administered, as well as over-medication or unreasonable confinement.

c. Staff must respond to Priority One cases within 24 hours of receipt by Adult Protective Services. For purposes of this Section, "case response" means that the investigator must attempt a face-to-face visit with the individual in need of protection within this 24-hour period.

## 2. Priority Two

a. Priority Two reports allege the individual in need of protection is abused, neglected, exploited, or extorted, and as a result, is at risk of imminent serious physical injury, or harm.

b. Priority Two reports may include, but not be limited to, those situations in which there is failure to provide or obtain mental health and medical treatment which, if untreated, may cause serious harm to the individual. This includes self-abusive behavior and failure to treat physical ailments. It could also include inadequate attention to physical needs such as insufficient food, medicine, inadequate heat or excessive heat, unauthorized use, and/or exploitation of the victim's income or property.

c. Staff must respond to Priority Two cases within five working days of receipt by Adult Protective Services. For purposes of this Section, "case response" means that the investigator must attempt a face-to-face visit with the individual in need of protection within a five working day period, so long as the investigation of Priority One cases is not delayed.

## 3. Priority Three

a. Priority Three reports include all other allegations in which the individual in need of protection is alleged to be abused, neglected, exploited, or extorted which do not involve risk of imminent serious physical injury, or harm and pose no immediate threat of serious injury or harm.

b. Staff must respond to Priority Three cases within 10 working days of receipt by Adult Protective Services. For purpose of this Section, "case response" means that the investigator must attempt a face-to-face interview with the individual in need of protection within this 10 day working period, so long as the investigation of Priority One and Two cases are not delayed.

4. When APS is not staffed sufficiently to respond promptly to all reported cases, APS shall set priorities for case response and allocate staff resources to serve those adults with disabilities with the most immediate need for protection.

#### D. Reporting Requirements

1. Allegations of known or suspected abuse, neglect, exploitation, or extortion shall include:

- a. the name and address of the alleged victim;
- b. the name and address of the person providing care to the alleged victim, if available; and
- c. the name of the person(s) suspected of abuse, neglect, extortion or exploitation, where different from item b above, if available; and
- d. other pertinent information.

2. Allegations of abuse, neglect, exploitation or extortion made by the alleged victim shall not be considered to be any less credible than allegations made by others and shall be reported according to procedures established in this Chapter.

3. All allegations of physical or sexual abuse shall be reported to the chief law enforcement agency of the parish in which the incident is reported to have occurred. This report is to be made by the end of the business day subsequent to the day on which the report is received.

E. Failure to report, false reporting, or obstructing reports or investigations may be reported by APS to law enforcement or other regulatory agencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:436 (April 1994), amended LR 27:314 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:761 (April 2010), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 41:

### **§17111. Investigation and Service Planning**

A. Investigation. Reports accepted by Adult Protective Services for investigation shall be prioritized according to §17109 of this Rule. The subsequent investigation and assessment shall determine if the situation and condition of the adult

requires further action and shall include determining the nature, extent, and cause of the abuse, neglect, exploitation, extortion, identifying the person or persons responsible for abuse, neglect, exploitation, or extortion, if known; if possible, interviewing the individual and visiting the individual's home or the location where the incident occurred. The investigation or assessment shall also include consultation with others having knowledge of the facts of the case. An Adult Protection worker shall have access to any records or documents including client-identifying information and medical, psychological, criminal or financial records necessary to the performance of the agency's duties without cost and without unnecessary delay. APS may petition a court of competent jurisdiction for such documents if access to them is refused. A report of the investigation shall be prepared, which contains an assessment of the individual's present condition/status.

B. Service Plan. The Protective Service worker will be responsible for developing a service plan based upon the case determination. If, at the end of the investigation, it is determined that the individual has been abused, neglected, exploited, and/or extorted by other parties, and that the problem cannot be remedied by extrajudicial means, Adult Protective Services shall refer the matter to the local district attorney's office or the DHH Bureau of Legal Services. Evidence must be presented, together with an account of the protective services given or available to the individual, and a recommendation as to what services, if ordered, would eliminate the abuse/neglect.

C. Right to Refuse Services. Protective services may not be provided in cases of self-neglect to any individual who does not

consent to such services or who, having consented, withdraws such consent. Nothing herein shall prohibit Adult Protective Services, the district attorney, the coroner, or the judge from petitioning for interdiction pursuant to Civil Code, Articles 389 through 399 or petitioning for an order for protective custody or for judicial commitment pursuant to R.S. 28.50 et seq., seeking an order for emergency protective services pursuant to R.S. 15:1511, or prohibit the district attorney from seeking an order for involuntary protective services pursuant to R.S.15:1508(B) (5).

AUTHORITY NOTE:                      Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE:                      Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:436 (April 1994), amended LR 27:314 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:762 (April 2010), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 41:

**§17113. Legal Interventions**

A. The Adult Protective Services Agency may petition any court of competent jurisdiction for the following types of orders. Except in the case of emergency orders, the DHH Bureau

of Legal Services shall be consulted for assistance in preparing petitions:

1. order to be granted access [R. S. 15:1507(C)];
2. order of protective services [R. S. 15:1507(F) and 15:508];
  - a. to provide mandatory counseling;
  - b. enjoin the accused to prevent continued abuse, neglect, exploitation or extortion;
  - c. require an medical or psychiatric/psychological of the client to determine least restrictive setting;
  - d. enjoin any party from interfering with the provision of protective services;
  - e. provide protective services, if the adult lacks capacity to consent and no other authorized person is available or willing.
3. Ex parte order for emergency protective services may be filed to prevent immediate harm, and may be requested orally or telephonically when there is not time to file in writing. Oral orders are to be followed with written petitions by close of business of the following day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective

Services LR 20:437 (April 1994),  
amended LR 27:314 (March 2001),  
amended by the Office of Aging and  
Adult Services, Division of Adult  
Protective Services, LR 36:763 (April  
2010).

**§17115. Confidentiality**

A. Information contained in the case records of Adult Protective Services shall not be released without a written authorization from the involved individual or his/her legally authorized representative, except that the information may be released to law enforcement agencies pursuing enforcement of criminal statutes related to the abuse of the adult or the filing of false reports of abuse or neglect, or to social service agencies, licensed health care providers, and appropriate local or state agencies where indicated for the purpose of coordinating the provision of services or treatment necessary to reduce the risk to the adult from abuse, neglect, exploitation, or extortion and to state regulatory agencies for the purpose of enforcing federal or state laws and regulations relating to abuse, neglect, exploitation or extortion by persons compensated through state or federal funds.

1. Requests for copies of confidential information are to be forwarded to the APS Director, P.O. Box 35182031, Bin #114, Baton Rouge, La 70821.
2. In instances where the adult is determined by Adult Protective Services as unable to give consent and there is no legally appointed guardian, records may be released in response to an order by a judge of a

court of competent jurisdiction.

B. The identity of any person who in good faith makes a report of abuse, neglect, exploitation, or extortion shall be confidential and shall not be released without the written authorization of the person making the report, except that the information may be released to law enforcement agencies pursuing enforcement of criminal statutes related to the abuse of the adult or to the filing of false reports of abuse or neglect.

C. Prior to releasing any information, except information released to law enforcement agencies as provided herein, the adult protection agency shall edit the released information to protect the confidentiality of the reporter's identity and to protect any other individual whose safety or welfare may be endangered by disclosure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:437 (April 1994), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:763 (April 2010), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 41:

**§17117. Immunity**

A. Under the provision of R.S. 15:1504.B, no cause of action shall exist against:

1. any person who, in good faith, makes a report, cooperates in an investigation by an agency, or participates in judicial proceedings;

2. any DHH Protective Services staff who, in good faith, conducts an investigation or makes an investigative judgment or disposition;

3. the persons listed in Items 1 and 2 of this Section shall have immunity from civil or criminal liability that otherwise might be imposed or incurred.

B. This immunity shall not extend to:

1. any alleged principal, conspirator, or accessory to an offense involving the abuse or neglect of the individual;

2. any person who makes a report known to be false or with reckless disregard for the truth of the report;

3. any person charged with direct or constructive contempt of court, any act of perjury as defined in Subpart C of Part VII of the Louisiana Criminal Code or any offense affecting judicial functions and public records as defined in Subpart D of Part VII of the Louisiana Criminal Code.

AUTHORITY NOTE: Promulgated in accordance with R.S.  
36:254, R.S. 14:403.2 and R.S. 15:1501-  
15:1511

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:437 (April 1994), amended LR 27:314 (March 2001), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:763 (April 2010).

**§17119. The Department of Health and Hospitals' Protective Services System**

A. The department will deliver protective services to adults living in unlicensed community settings through the Office of Aging and Adult Services, Division of Adult Protective Services

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:437 (April 1994), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:763 (April 2010).

**§17121. Responsibilities of Regional Coordinating Councils**

A. The Office of Aging and Adult Services, Division of Adult Protective Services shall convene and participate in Regional Coordinating Councils in each region of the state to coordinate community services in support of individuals in need of protection.

B. These councils will have as their objective to achieve maximum community coordination by efforts to:

1. identify resources, both in common to the agencies represented and available from outside resources; and

2. increase availability of needed services by maximizing existing resources and decreasing duplication of effort;

3. assure maximum community coordination of effort in providing necessary services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:438 (April 1994), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:764 (April 2010).

**§17123. Training**

A. To encourage prompt reporting of suspected abuse, neglect, exploitation, or extortion, Adult Protective Services staff shall provide for and/or participate in activities to inform the general public and, in particular, targeted professionals and service providers about the Adult Protective Service Program.

B. The adult protection agency shall also be responsible for ongoing in-service training for its staff which assures adequate performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:438 (April 1994), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:764 (April 2010).

**§17125. Dissemination**

A. A copy of this Rule shall be made available to anyone, including individuals in need of protection, upon request.

B. Copies of this Rule shall be disseminated to state and local agencies which serve populations of persons with mental, physical, or emotional disabilities (including but not limited

to community services offices of the Office for Citizens with Developmental disabilities, ~~Office of Mental Health~~, Office of Behavioral Health Addictive Disorders, Office of Public Health and state and local law enforcement agencies, advocacy agencies, nursing homes, hospitals, private care agencies, and other related service agencies).

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services LR 20:438 (April 1994), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 36:764 (April 2010), amended by the Office of Aging and Adult Services, Division of Adult Protective Services, LR 41:

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a neutral effect on the ability of the family to perform its functions since the rule only authorizes the transfer of operation to the Department of Health and Hospitals (DHH), Office of Aging and Adult Services (OAAS).

In compliance with Act 854 of the 2012 Regular Session of the Louisiana Legislature, the poverty impact of this proposed Rule has been considered. It is anticipated that this proposed Rule

will have no impact on child, individual, or family poverty in relation to individual or community asset development as described in R.S. 49:973.

In compliance with House Concurrent Resolution (HCR) 170 of the 2014 Regular Session of the Louisiana Legislature, the provider impact of this proposed Rule has been considered. It is anticipated that this proposed Rule will have no impact on the staffing level requirements or qualifications required to provide the same level of service, and will have no direct or indirect cost to the provider to provide the same level of service.

Interested persons may submit written comments to Hugh Eley, Office of Aging and Adult Services, P.O. Box 2031, Baton Rouge, Louisiana 70821-2031. He is responsible for responding to inquiries regarding this proposed Rule. A public hearing on this proposed Rule is scheduled for Tuesday, December 30, 2014 at 1 p.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, Louisiana. At that time all interested individuals will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Kathy Kliebert

Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

Person Preparing Statement:	Rick Henley	Department:	<u>Health And Hospitals</u>
Phone:	(225) 219-0209	Office:	<u>Aging and Adult Services</u>
Return Address:	P.O. Box 2031 Baton Rouge, LA	Rule Title	<u>Adult Protective Services Program</u>
		Date Rule Takes Effect:	<u>On Final Promulgation, tentatively February 2015</u>

SUMMARY

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. The following summary statements, based on the attached worksheets, will be published in the Louisiana Register with the proposed agency rule.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (SUMMARY)

*The Adult Protective Services Act (LA R.S. 15:1501-1511) delineates the operation of an adult protective services program for individuals aged 60 years or older to the Governor's Office of Elderly Affairs (GOEA) and individuals between the ages of 18 - 59 years old to the Department of Health and Hospitals (DHH), Office of Aging and Adult Services (OAAS). However, a Memorandum of Understanding (MOU) signed in July 2012 between DHH and the Governor's Office of Community Programs has transferred the operation of the adult protective services programs for individuals age 60 years or older (commonly referred to as Elderly Protective Services - EPS) to DHH/OAAS. Although GOEA maintains the responsibility for EPS through the statutes, the operation of the EPS program by DHH/OAAS is accomplished through the MOU. This rule proposes to expand the Adult Protective Services program within DHH/OAAS to any individual 18 years and older as outlined in the MOU.*

*This proposed rule change does not affect current services offered through the Adult Protective Services Program and therefore are not anticipated to result in any additional savings or costs, other than the cost of promulgation of the rule in the amount of \$2,050 in FY 14-15. This cost is routinely included in the agency's annual operating budget.*

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

*There is no known effect on revenue collections of state or local governmental units.*

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

*Individuals aged 60 years or older will now receive protective services from DHH/OAAS. The proposed rule is not anticipated to impact services.*

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

*This proposed rule is not anticipated to have any effect on competition and employment.*

FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberations on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

*This rule proposes to transfer operation of the Adult Protective Services (APS) program for persons age 60 and older, commonly referred to as Elderly Protective Services (EPS), to the Department of Health and Hospitals (DHH), Office of Aging and Adult Services (OAAS).*

- B. Summarize the circumstances that require this action. If the action is required by federal regulations, attach a copy of the applicable regulation.

*Pursuant to Act 13 of the 2012 Regular Session, the operation of the Adult Protective Services (APS) program for persons age 60 and older, commonly referred to as Elderly Protective Services (EPS), was transferred to the Department of Health and Hospital (DHH), Office of Aging and Adult Services (OAAS). Since July 1, 2012, OAAS was charged with operating an adult protective services program under a Memorandum of Understanding between the Department of Health and Hospitals and the Governor's Office Community Programs.*

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

*Yes, this proposed rule will result in an increase in program expenditures of \$2,050 in the state's administrative expense for promulgation of this proposed rule and the final rule.*

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a)  If yes, attach documentation.

(b)  If no, provide justification as to why this rule change should be published at this time.

*The minimal costs of promulgating this rule will bring the published administrative rule into compliance with the legislation passed which authorizes the transfer of operation of the Adult Protective Services (APS) program for persons age 60 and older, commonly referred to as Elderly Protective Services (EPS) to the Department of Health and Hospitals, Office of Aging and Adult Services (OAAS).*

FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET

I. A. COST OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase or (decrease) in cost to implement the proposed action?

COST	FY 14-15	FY 15-16	FY 16-17
PERSONAL SERVICES			
OPERATING EXPENSES	\$2,050	\$0	\$0
PROFESSIONAL SERVICES			
OTHER CHARGES			
REPAIR & CONSTR.			
POSITIONS (#)			
<b>TOTAL</b>	<b>\$2,050</b>	<b>\$0</b>	<b>\$0</b>

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

*The expenditures reflected above are the estimated costs for promulgating and distributing information regarding the authorization of the Office of Aging and Adult Services. In FY 14-15, \$2,050 is included for the state's administrative expense for promulgation of this proposed rule and the final rule.*

3. Sources of funding for implementing the proposed rule or rule change.

Source	FY 14-15	FY 15-16	FY 16-17
STATE GENERAL FUND	\$0	\$0	\$0
SELF-GENERATED			
FEDERAL FUND	\$0		
OTHER (Specify- <b>Statutory Dedication</b> ).	\$2,050		
<b>Total</b>	<b>\$2,050</b>	<b>\$0</b>	<b>\$0</b>

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

*Yes, sufficient funds are available to implement this proposed action.*

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THIS ACTION PROPOSED.

FISCAL AND ECONOMIC IMPACT STATEMENT  
WORKSHEET

2. Indicate the sources of funding of the local governmental unit that will be affected by these costs or savings.

*There is no known impact on the sources of local governmental unit funding.*

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

- A. What increase or (decrease) in revenues can be expected from the proposed action?

REVENUE INCREASE/DECREASE	FY 14-15	FY 15-16	FY 16-17
STATE GENERAL FUND	\$0	\$0	\$0
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS	\$0	\$0	\$0
LOCAL FUNDS			
<b>Total</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

*\*Specify the particular fund being impacted*

- B. Provide a narrative explanation of each increase or decrease in revenue shown in "A". Describe all data, assumptions, and methods used in calculating these increases or decreases.

*The amounts reflected above are the estimated costs in FY 14-15 for the expenses for promulgation of this proposed rule and the final rule.*

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effects on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.)

*There are no known impacts on persons or non-governmental groups as a result of this proposed action. This rule is being promulgated to transfer operation of the Adult Protective Services (APS) program for persons age 60 and older, commonly referred to as Elderly Protective Services (EPS) to the Department of Health and Hospitals (DHH), Office of Aging and Adult Services (OAAS).*

- B. Also, provide an estimate of any revenue impact resulting from this rule or rule change to these groups.

*It is not anticipated the changes in the rule will have an effect on expenditures*