

**TABLE OF CONTENTS**

**Protective Services for the Elderly**

Definitions . . . . . 17b-461- 1

Reporting suspected cases of abuse, neglect, exploitation or abandonment of elderly persons . . . . . 17b-461- 2

Reporting requirements . . . . . 17b-461- 3

Evaluation of report. . . . . 17b-461- 4

Findings, referrals, registry and confidentiality . . . . . 17b-461- 5

Procedures on referrals . . . . . 17b-461- 6

Access to records, authority of the department and assistance by public or private agencies . . . . . 17b-461- 7

Court procedures . . . . . 17b-461- 8

Payment for protective services; procedures when elderly person unable to pay . . . . . 17b-461- 9



## Protective Services for the Elderly

### Sec. 17b-461-1. Definitions

For purposes of sections 17b-461-1 through 17b-461-9

(a) "Abandonment" means the desertion or wilful forsaking of an elderly person by a caretaker, or the foregoing of duties, the withdrawal or neglect of duties and obligations owed an elderly person by a caretaker or other person.

(b) "Abuse" includes, but is not limited to, the wilful infliction of physical pain, injury or mental anguish, or the wilful deprivation by a caretaker of services which are necessary to maintain physical and mental health.

(c) "Capacity to consent" means the ability to understand, make and communicate responsible decisions concerning one's own person.

(d) "Caretaker" means "caretaker" as defined in Section 17b-450 of the Connecticut General Statutes.

(e) "Commissioner" means the Commissioner of Social Services.

(f) "Department" means the Department of Social Services.

(g) "Elderly person" means any resident of Connecticut who is sixty years of age or older.

(h) "Exploitation" means advantage taken of an elderly person by another person or caretaker whether for monetary, personal, or other benefit, gain or profit.

(i) "Neglect" means "neglect" as defined in section 17b-450 of the Connecticut General Statutes.

(j) "Protective Services" means the provision, by the state or other governmental or private organizations or individuals, of services necessary to prevent abuse, neglect, exploitation or abandonment.

(k) "Report" means a complaint received by the Commissioner or his designee which presents reasonable cause to believe that an elderly person is being or has been abused, neglected exploited or abandoned.

(l) "Reasonable cause" means sufficiently substantiated allegations of an elderly person's physical, mental, emotional or financial condition, and of the action or inaction of any other person(s) with regard thereto establishing a basis for suspicion or belief that the elderly person is being or has been abused, neglected, exploited or abandoned.

(m) The term "services which are necessary to maintain physical and mental health" includes, but is not limited to, the provision of medical care for physical and mental health needs, the relocation of any elderly person to a facility or institution able to offer such care, assistance in personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from maltreatment the result of which includes, but is not limited to, malnutrition, deprivation of necessities or physical punishment, and transportation necessary to secure any of the above stated needs, except that this term shall not include taking such person into custody without consent except as provided in Sections 17b-450 to 17b-461, inclusive, of the Connecticut General Statutes.

(Effective October 2, 1991; transferred and amended June 10, 1998)

### Sec. 17b-461-2. Reporting suspected cases of abuse, neglect, exploitation or abandonment of elderly persons

(a) Persons required by law to report instances of abuse, neglect, exploitation or abandonment of an elderly person shall report such information within five calendar days to the Commissioner or to the Commissioner's designee.

(1) Persons required to make such reports are any physician or surgeon licensed under the provisions of Chapter 370 or 371 of the Connecticut General Statutes, any resident physician or intern in any hospital in this state, whether or not so licensed, any registered nurse, any nursing home administrator, nurse's aide or orderly in a nursing home facility, any person paid for caring for a patient in a nursing home facility, any staff person employed by a nursing home facility, any patient's advocate and any licensed practical nurse, medical examiner, dentist, osteopath, optometrist, chiropractor, podiatrist, social worker, clergy person, police officer, pharmacist or physical therapist, who has reasonable cause to suspect or believe that any elderly person has been abused, neglected, exploited or abandoned or is in a condition which is the result of such abuse, neglect, exploitation or abandonment, or who is in need of protective services, shall within five calendar days report such information or cause a report to be made in any reasonable manner to the Commissioner or to the person or persons designated by him to receive such reports. Any person required to report under the provisions of this section who fails to make such report shall be fined not more than five hundred dollars.

(2) This report shall include the name and address of the elderly persons, description of the abuse, neglect, exploitation or abandonment being reported, as well as any other information which the person making the report believes may be helpful in the investigation of the case or the protection of the victim.

(b) Any other person who has reasonable cause to believe that an elderly person is being, or has been, abused, neglected, exploited or abandoned or is in need of protective services, may report the matter to the Commissioner or the Commissioner's designee.

(c) Treatment of an elderly person by a Christian Science practitioner, rather than by a licensed physician or medical practitioner, shall not of itself constitute grounds for the implementation of protective services.

(Effective October 2, 1991; transferred and amended June 10, 1998)

### **Sec. 17b-461-3. Reporting requirements**

(a) Reports of suspected abuse, neglect, exploitation or abandonment shall be received:

(1) At the regional offices of the department during the usual and customary business hours of the Department or

(2) During nonbusiness hours, at such telephone numbers as the department may designate and appropriately publicize.

(Effective October 2, 1991; transferred and amended June 10, 1998)

### **Sec. 17b-461-4. Evaluation of report**

(a) Each report received shall be promptly and thoroughly evaluated, as follows:

(1) The department, or such other appropriate person(s) or agency as may be requested and available to assist in the evaluation, shall visit the elderly person, unless the elderly person or his caretaker denies access for such a visit;

(2) The department, or such other person(s) or agency as may be requested and available to assist in the evaluation, shall consult with such others as may have additional knowledge of the particular circumstances or needed expertise in regard thereto.

(b) Any person(s) requested and available to assist the department in evaluating a report must promptly transmit any findings to the department.

(c) Based on information gathered through personal visit(s) and/or consultations, or otherwise determined in the course of the evaluation, the department shall make

written findings as to the report of abuse, neglect, exploitation or abandonment including verification of the elderly person's age.

(Effective October 2, 1991; transferred and amended June 10, 1998)

### **Sec. 17b-461-5. Findings, referrals, registry and confidentiality**

(a) If upon completion of the evaluation of a report the department determines that protective services are needed and, if the elderly person consents, the department shall arrange for protective services.

(b) If upon completion of the evaluation of a report the department determines that protective services are needed but the elderly person fails to consent thereto, and the department has reason to believe that such person is incapable of managing his personal or financial affairs, the department shall determine the appropriateness of establishing a conservatorship for such person.

(c) If the department determines that no protective services are needed, the department may:

(1) Take such steps, including contacting any other agencies, organizations or individuals as may be appropriate, to assure the resolution of the reported situation; and/or

(2) Close the case.

(d) The department shall maintain a statewide registry of reports received and case narrations which shall include actions recommended and taken in the form of a case plan.

(e) The client's file, the original report and the evaluation report shall not be deemed public records or be subject to the provisions of Section 1-19 of the Connecticut General Statutes. The name of the person making the original report or the name of any person mentioned in such report shall not be disclosed unless: the person making the original report specifically requests such disclosure; or unless a judicial proceeding results therefrom; or unless disclosure of the name of the elderly person about whom the report was made is required to fully evaluate a report.

(Effective October 2, 1991; transferred and amended June 10, 1998)

### **Sec. 17b-461-6. Procedures on referrals**

(a) Upon receipt of a report, the Department shall initiate activities for the provision of appropriate services.

(b) If the elderly person refuses services offered by the Department the case shall be closed unless the department has reason to believe that such elderly person is incapable of managing his personal or financial affairs. In such case, the department shall provide protective services to the extent possible and may apply to probate court for the appointment of a conservator of person or estate, as appropriate.

(Effective October 2, 1991; transferred and amended June 10, 1998)

### **Sec. 17b-461-7. Access to records, authority of the department and assistance by public or private agencies**

(a) Any person, department, agency or commission authorized to carry out the duties enumerated in Chapter 319dd inclusive of the Connecticut General Statutes shall have access to all relevant records, except that records which are confidential to an elderly person shall only be divulged with the written consent of the elderly person or his/her representative. The authority of the Department under Section 17b-454 of the Connecticut General Statutes, shall include, but not be limited to, the right to initiate or otherwise take those actions necessary to assure the health,

safety and welfare of any elderly person, subject to any specific requirement for individual consent.

(b) In performing the duties set forth in Chapter 319dd of the Connecticut General Statutes, the department may request the assistance of the staffs and resources of all appropriate state departments, agencies and commissions and local health directors, and may utilize any other public or private agencies, groups or individuals who are appropriate and who may be available.

(Effective October 2, 1991; transferred and amended June 10, 1998)

### **Sec. 17b-461-8. Court procedures**

(a) If it appears to the social worker responsible for providing necessary protective services to a consenting elderly person that the caretaker of such person, as defined in Section 17b-461-1 of the Regulations of Connecticut State Agencies, is interfering with or threatens to interfere with the provision of protective services to the extent that the delivery of such services will become impaired, that information shall be reported to the Commissioner or his designee. If the facts of the case indicate that court action is required, a petition may be filed with the probate court in the district in which the elderly person resides for an order enjoining the caretaker as provided by Section 17b-453(b) of the Connecticut General Statutes. The Commissioner shall be represented by the Attorney General in any such proceedings. If it appears to the Attorney General that the application for a restraining order hereunder is of such serious nature that it may result in appeal or other legal problems, then upon the advice of the Attorney General, the commissioner may, as an alternative, file such application in the superior court of proper jurisdiction. At any hearing held on such application, those persons from the Department who have knowledge of the facts involved shall appear as witnesses. Other witnesses may be subpoenaed by the Attorney General as necessary.

(b) In the event that a restraining order is obtained under subsection (a) of this section and the caretaker of the elderly person refuses to allow the delivery of services as provided in Section 17b-453(b) of the Connecticut General Statutes, then the Commissioner shall apply to the superior court which has jurisdiction as set forth in the Connecticut General Statutes and the Connecticut Practice Book for a contempt of court order against such caretaker.

(c) If the Commissioner finds that an elderly person is being abused, neglected, exploited or abandoned and lacks capacity to consent to reasonable and necessary protective services, he may petition the probate court for appointment of a conservator of the elderly person pursuant to the provisions of Chapter 802h of the Connecticut General Statutes in order to obtain such consent. Such petition shall be brought in the probate court for the district in which such elderly person resides or has his or her domicile. At any hearing scheduled by the probate court on said petition, the commissioner or his designee shall be represented by the Office of the Attorney General.

(d) In any proceeding in probate court pursuant to provisions of the Connecticut General Statutes the probate court shall appoint an attorney to represent the elderly person if he or she is without other legal representation.

(e) If the probate court concludes that a conservator is required and appoints the commissioner to be conservator of the person, then the necessary protective services shall be delivered. Whenever the Commissioner is designated herein to act as conservator, he may delegate the performance of such duties in accordance with the Connecticut General Statutes.

(f) If the court appoints an individual, agency or organization other than the commissioner to be conservator of such elderly person then the commissioner or his designee shall make suitable arrangement with such conservator for the delivery of services. In the event the conservator refuses to allow the delivery of such services, the commissioner or his designee may petition the court of probate which appointed such conservator for his removal for cause shown.

(g) In the event that it appears to any person involved in the delivery of protective services that an elderly person is being abused, neglected, exploited or abandoned and lacks capacity to consent to reasonable and necessary protective services, and that to have an application for the appointment of a conservator of his person processed in the ordinary manner would result in a delay which would cause imminent danger to the health and welfare of such elderly person, then the commissioner shall apply for the appointment of a temporary conservator under the provisions of Section 45a-654 of the Connecticut General Statutes. The provisions of Section 17b-461-8(c) above with respect to the representation of the commissioner by the Office of the Attorney General shall apply.

(h) In the event that the commissioner or his designee concludes that there is no need for continuation of a conservatorship of an elderly person then the commissioner or his designee shall apply to the probate court which appointed such conservator for the termination of the conservatorship. The commissioner or his designee shall provide such investigative, medical reports and other evidence as may be requested by the court of probate for use in determining whether or not to grant such application. In the event the court of probate denies such application, but the commissioner determines that further involvement of the Department is either unnecessary or unwarranted, then the commissioner or his designee may resign as conservator of the elderly person. If the court of probate concludes that it is in the best interest of such elderly person, then it shall appoint some other suitable person to be conservator of his or her person under the provision of section 45a-660 of the Connecticut General Statutes.

(Effective October 2, 1991; transferred and amended June 10, 1998)

### **Sec. 17b-461-9. Payment for protective services; procedures when elderly person unable to pay**

(a) Protective services shall be provided for any elderly person prior to an evaluation of his or her ability to pay, if needed. The Department shall conduct an investigation to determine the client's ability to pay for such services as soon as possible.

(b) It shall be determined that an elderly person has the ability to pay for services if: (1) his or her income exceeds 200% of the federal poverty income guidelines as published from time to time in the Federal Register and/or; (2) his or her assets exceed those established for the state funded portion of the Connecticut Home Care Program for Elders.

(c) The commissioner or his designee may petition the probate court for reimbursement of provided services, from a client's income and/or estate, when a client has the ability to pay but refuses to do so.

(d) The commissioner or his designee shall follow the procedures and policies established under the department's uniform policy manual section 7500 when it becomes necessary to recover payment for protective services made for a financially ineligible client. This shall include referral to the regional resource staff and collection by the Bureau of Collections.

(Effective October 2, 1991; transferred and amended June 10, 1998)