

**NORTH CAROLINA DEPARTMENT OF HEALTH AND HUMAN SERVICES
WORKING AGREEMENT BETWEEN THE
DIVISION OF FACILITY SERVICES AND THE DIVISION OF SOCIAL SERVICES**

SUBJECT: Adult Protective Services in Nursing, Combination and Residential Care Facilities Licensed by the Division of Facility Services.

PURPOSE: According to G.S. 108A-103, the director of the county department of social services is mandated to receive and promptly evaluate reports alleging a disabled adult is in need of protective services. This includes disabled adults who reside in or are found within the county. Rules for implementation of the Adult Protective Services law by county departments of social services are established by the Social Services Commission. Development, dissemination, and interpretation of these rules are done by the Division of Social Services. The Division of Facility Services has responsibility for licensing nursing, combination, and residential care facilities for adults. This agreement establishes procedures to be followed regarding evaluation and resolution of Adult Protective Services reports on patients or residents of these facilities. These facilities include nursing and combination facilities licensed under G.S. 131E; mental health residential facilities licensed under G.S. 122C, including intermediate care facilities for the mentally retarded (ICF/MR); and adult care homes licensed under G.S. 131D.

I. Responsibilities of the County Department of Social Services

A. The department of social services in the county in which the facility is located shall evaluate reports of abused, neglected, or exploited disabled adults in need of protective services who are specifically named patients or residents of nursing and combination facilities; mental health residential facilities; or adult care homes. This includes reports regarding residents who are placed from other counties.

Complaints received by the county department of social services regarding general conditions or suspected violations of standards in:

1. nursing and combination facilities shall be referred to the Complaints Investigation Branch, Division of Facility Services;
2. mental health residential facilities and ICF/MRs shall be referred to the Mental Health Licensure and Certification Section, Division of Facility Services;
3. adult care homes shall be referred to the adult homes specialist for follow-up in accordance with the specialist's ongoing responsibility for supervision of these facilities.

When the county department of social services receives information alleging that a disabled adult was abused, neglected, or exploited while a resident of a facility, but the referral is not accepted as an Adult Protective Services report because the adult is not alleged to be either disabled or in need of protective services, and the adult is or was (during the alleged incident) a resident or patient of a:

1. nursing or combination facility, the county shall refer the caller to the Complaints Investigation Branch, Division of Facility Services;

2. mental health residential facility or ICF/MR, the county shall refer the caller to the Mental Health Licensure and Certification Section, Division of Facility Services;
3. adult care home, the information shall be referred to the adult homes specialist for follow-up in accordance with the specialist's ongoing responsibility for supervision of these facilities.

B. Upon receiving a protective services report on a person living in a nursing or combination facility, mental health residential facility, or adult care home, the county director shall make a prompt and thorough evaluation to determine the need for protective services.

Evaluation of reports involving an emergency as defined in G.S. 108A-101(g) shall be initiated immediately or within 24 hours; according to the requirements of G.S. 108A-103 (d) (1-2). Evaluation of other reports shall be initiated within 72 hours, according to the requirements of G.S. 108A-103 (d)(3).

The evaluation shall include:

1. a visit to the person, which means that the person must be seen by the director or his representative. As many visits will be made as are necessary to determine whether the adult is disabled; abused, neglected, or exploited; and in need of protective services;
2. consultation with others who have knowledge of the facts of the situation. This includes individuals identified by the person making the report, individuals mentioned by the disabled adult, and others identified by the county department of social services who may have information pertinent to the evaluation;
3. medical, psychological and/or psychiatric evaluations when necessary to determine whether the adult is disabled; abused, neglected, or exploited; and in need of protective services; and to determine what services are needed.

C. The county director will not inform the administrator prior to the first visit to the facility that a protective services report has been received, except in specific instances where the county director thinks the assistance of the administrator will be needed in conducting the evaluation.

D. The county director shall keep confidential the identity of the person making the protective services report.

E. When the county director substantiates that an individual is an abused, neglected, or exploited disabled adult in need of protective services, authorization to provide protective services will be requested from the individual or the district court, as appropriate. When authorization is obtained, the county director shall provide or arrange for the needed services.

- F. The county director shall provide the administrator of a nursing or combination facility, mental health residential facility or adult care home with a written summary of the nature of the protective services report; whether evidence of abuse, neglect or exploitation was found; and whether a need for protective services was substantiated.

The written summary to the administrator shall be limited to the following:

1. acknowledgment that a protective services report was received on a specified patient or resident of the facility;
2. the specific allegations in the report (the complainant shall not be named);
3. whether evidence of abuse, neglect, or exploitation was found;
4. whether the need for protective services was substantiated;
5. a general statement as to how the conclusion was reached (the names of persons who were contacted during the evaluation to obtain information shall not be given).

- G. When evidence of abuse, neglect, or exploitation is found in the course of an evaluation:

1. in a nursing or combination facility, the county director shall notify the Complaints Investigation Branch, Division of Facility Services, immediately by telephone. During the telephone call, the county director shall say whether the need for protective services will be substantiated.
2. in a mental health residential facility or ICF/MR, the county director shall notify the Mental Health Licensure and Certification Section, Division of Facility Services, immediately by telephone. During the telephone call, the county director shall say whether the need for protective services will be substantiated.
3. in an adult care home, information shall be referred immediately to the adult homes specialist for follow-up in accordance with the specialist's ongoing responsibility for supervision of the home.

- H. Upon completion of the evaluation, the county director shall prepare a written report. The written report shall include:

1. the name, address, age, and condition of the adult;
2. the allegations;
3. the evaluation including the agency's findings and supporting documents (e.g. psychological, medical report);
4. the conclusions (including whether evidence of abuse, neglect, or exploitation was found, and whether the need for protective services was substantiated);
5. recommendations for action.

The written report shall not include the identity of the person making the protective services report or the names of individuals who provide information about the disabled adult. This information shall be shared verbally with the Division of Facility Services if requested by the Division in order to carry out its investigation.

Within 30 days of completion of the evaluation the written report shall be sent to the appropriate supervisory agency as indicated below.

1. Written reports of evaluations conducted on patients in nursing and combination facilities shall be sent to the Complaints Investigation Branch, Division of Facility Services.
2. Written reports of evaluations conducted on residents of mental health residential facilities and ICF/MRs shall be sent to the Mental Health Licensure and Certification Section, Division of Facility Services.
3. Written reports of evaluations conducted on residents in adult care homes shall be sent to the adult homes specialist in the county department of social services. The adult homes specialist will review the report for licensure and resident bill of rights violations. After reviewing it, the specialist will forward any findings to the Division of Facility Services according to procedures outlined in the DHHS Adult Care Home Procedures Manual, Section 180.

When in the course of an evaluation, it appears that a report of a need for protective services will not be substantiated, but the county director suspects violations of licensure standards, such violations shall be reported immediately to the appropriate supervisory agency. Reports of suspected violations of standards in:

1. nursing and combination facilities shall be made to the Complaints Investigation Branch, Division of Facility Services;
2. mental health residential facilities and ICF/MRs shall be made to the Mental Health Licensure and Certification Section, Division of Facility Services;
3. adult care homes shall be made to the adult homes specialist in the county department of social services.

II. Responsibilities of the Division of Facility Services

- A. Upon receiving a written report from a county director of social services confirming that abuse, neglect, or exploitation has occurred or that abuse, neglect or exploitation has occurred and there is a need for protective services in a nursing or combination facility, mental health residential facility, ICF/MR, or adult care home, the Division of Facility Services shall determine the extent of its need for follow-up. Follow-up by the Division of Facility Services is carried out under its authority to license these facilities rather than under the Adult Protective Services Law.

When the Division of Facility Services determines that follow-up is not needed in a mental health residential facility in terms of licensure regulations, the Division will notify the county department which submitted the written report within 10 days by letter.

When the Division of Facility Services determines that follow-up is needed in a mental health residential facility in terms of enforcement of licensure regulations, the county shall be contacted regarding the situation and plans for follow-up by the Division of Facility Services. Within thirty days of completion of its investigation, the Division of Facility Services will send a written report to the county director. The written report shall include the outcome of the investigation and corrective measures initiated.

When the Division of Facility Services determines that follow-up is needed in a nursing or combination facility, in terms of enforcement of licensure regulations, the Division of Facility Services will send a written report to the county. The written report shall include the outcome of the investigation, letter to the administrator and a report of any violations. The written report shall be posted within ten working days of the completion of the written investigation report.

When the Division of Facility Services determines that follow-up is needed in terms of enforcement of licensure regulations in adult care homes, the adult homes specialist shall be contacted in accordance with procedures outlined in the DHHS Adult Care Homes Procedures Manual, Section 180.

B. When the Division of Facility Services receives a report from a third party of alleged abuse, neglect, or exploitation and a need for protective services about a specifically named person living in a nursing or combination facility, mental health residential facility, ICF/MR, or adult care home, the person making the report (complainant) shall be informed that county departments of social services are responsible for evaluation of reports regarding adults living in facilities who may be in need of protective services. The complainant shall be referred to the department of social services in the county in which the facility is located and a follow-up telephone call shall be made immediately to the department. The following information shall be provided to the department to the extent such information is given to the Division by the complainant:

1. the name of the person alleged to be in need of protective services;
2. the name and address of the facility in which the person lives;
3. the person's age;
4. the nature and extent of the person's injury or condition resulting from abuse, neglect, or exploitation and the circumstances in which the abuse, neglect, or exploitation occurred;
5. the name, address, and telephone number of the complainant.

If the department of social services decides that the referral is not appropriate as an adult protective services report, it will notify the Division of Facility Services by the next working day.

- C. Questions received or raised by the Division of Facility Services regarding the Adult Protective Services Law or regarding rules established by the Social Services Commission shall be referred to the Division of Social Services for response.
- D. In accordance with the North Carolina General Statutes, all client specific information received from county departments of social services contained in or submitted in conjunction with the required written report shall be kept confidential by the Division of Facility Services unless release of specific information is required by court order or authorized by the individual client [(G.S. 108A-80; G.S. 131D-2, and 131D-27; G.S. 131E-105(b) and 131E-124)].

III. Responsibilities of the Division of Social Services

- A. The Division of Social Services has responsibility for development of policies and procedures for the provision of adult protective services by county department of social services.
- B. The Division of Social Services has responsibility for obtaining and disseminating interpretations of the Adult Protective Services Law and rules and procedures for the provision of protective services established by the Social Services Commission.
- C. The Division of Social Services shall provide consultation and technical assistance to county departments of social services regarding the provision of Adult Protective Services in nursing and combination facilities, mental health residential facilities, ICF/Mrs., and adult care homes.

IV. Agreement of all Parties

Changes in the terms and conditions of this agreement which may be necessary shall be through formal written amendments signed by both parties. Either party may terminate this agreement upon 30 days written notice or immediately for cause.

This agreement shall begin on the date of the last signature and remain current until terminated by either party.

<i>Lynda A. McDaniel</i>	<i>2/23/01</i>	<i>E. C. Modlin</i>	<i>2-20-01</i>
Lynda McDaniel, Director	Date	E. C. Modlin, ACSW, Director	Date
Division of Facility Services		Division of Social Services	

