

Document: Readopted Rules

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**TITLE 460 DIVISION OF DISABILITY, AGING, AND
REHABILITATIVE SERVICES**

LSA Document #00-300

DIGEST

Readopts rules in anticipation of IC 4-22-2.5, providing that all rules of the Indiana administrative agencies in force on December 31, 1995, expire on January 1, 2002. Effective 30 days after filing with secretary of state.

460 IAC 1-2-1	460 IAC 1-2-7
460 IAC 1-2-2	460 IAC 1-2-8
460 IAC 1-2-3	460 IAC 1-2-9
460 IAC 1-2-4	460 IAC 1-2-10
460 IAC 1-2-5	460 IAC 1-2-11
460 IAC 1-2-6	460 IAC 1-2-12

SECTION 1. UNDER IC 4-22-2.5-3, 460 IAC 1-2-1 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

460 IAC 1-2-1 Purpose

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-3; IC 35-42-2-1; IC 35-46-1-13

Sec. 1. The purpose of the adult protective services program is to provide a legal basis for intervention to protect endangered adults within the state of Indiana by receiving reports regarding adults who may be endangered, investigating those reports and providing a coordinated and proper local response to individual cases as they are substantiated. Responsibility for investigating reports of neglect, battery, or exploitation of endangered adults, as well as for securing the appropriate social, medical, and/or legal intervention, shall rest with adult protective services units, designated by the ~~Indiana department on aging and community services~~ **division of disability, aging, and rehabilitative services**. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-1; filed Oct 30, 1985, 10:48 a.m.: 9 IR 478*) *NOTE: Transferred from the department on aging and community services (450 IAC 1-2-1) to the division of aging and rehabilitative services (460 IAC 1-2-1) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 2. UNDER IC 4-22-2.5-3, 460 IAC 1-2-2 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

460 IAC 1-2-2 Definitions

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-3; IC 35-42-2-1; IC 35-46-1-13

Sec. 2. For purposes of 460 IAC 1-2-2: **The definitions in this section apply throughout this rule.**

(b) "APS unit" is the adult protective services unit, charged with receiving and investigating reports regarding endangered adults, located throughout the state in areas designated by ~~HDACS~~: **DDARS**.

(c) "Available services" means services needed by the individual to sustain his or her life, liberty, health or property which can be obtained from a service provider serving the area in which the endangered adult is living, or which could be provided by a willing neighbor, friend or relative.

(d) "**DDARS**" is the **division of disability, aging, and rehabilitative services**.

(e) "Emergency" refers to a situation in which the possibility of immediate physical danger to the adult exists.

- (f) “Endangered adult” means an individual who is eighteen (18) years of age or older and who:
- (1) is incapable by reason of insanity, mental illness, mental retardation, senility, dementia, habitual drunkenness, drunkenness, excessive use of drugs, old age, infirmity, or other physical or mental incapacity, of either managing his or directing the management of the individual’s property or caring for himself or both; providing self-care; and
 - (2) is harmed or threatened with harm as a result of:
 - (A) neglect;
 - (B) battery; or
 - (C) exploitation of the individual’s personal services or property.

~~This definition~~ **The term** includes individuals who are endangered as a consequence of their own inability to care for themselves and who would receive little or no help except through the services of an external intervenor.

(g) “Exploitation of the individual’s personal services or property” includes, but is not limited to sexual misuse as well as the use of the endangered adult’s labor without pay or exerting unauthorized control over the finances or property of the endangered adult.

~~“IDACS” is the Indiana department on aging and community services.~~

(h) “Neglect” means that the endangered adult or the person who takes care of the endangered adult is unable or fails to provide adequate food, clothing, shelter or medical care.

(i) “Substantiated” means that endangerment was established to the satisfaction of the APS unit as relates to the definition of an endangered adult.

(j) “Unsubstantiated” means that endangerment of ~~a~~ **an** individual was not established to the satisfaction of the APS unit, within the meaning of ~~IC 4-27-7: IC 12-10-3.~~ *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-2; filed Oct 30, 1985, 10:48 a.m.: 9 IR 478) NOTE: Transferred from the department on aging and community services (450 IAC 1-2-2) to the division of aging and rehabilitative services (460 IAC 1-2-2) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 3. UNDER IC 4-22-2.5-3, 460 IAC 1-2-3 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

460 IAC 1-2-3 Agency cooperation

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-3; IC 35-42-2-1; IC 35-46-1-13

Sec. 3. All appropriate governmental agencies shall cooperate in the implementation of the provisions of ~~IC 4-27-7 IC 12-10-3~~ and coordinate services to endangered adults and shall share such information concerning the allegation of battery, neglect, exploitation, or endangerment of adults as requested by each other, except to the extent that the information is otherwise protected under state or federal law. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-3; filed Oct 30, 1985, 10:48 a.m.: 9 IR 478) NOTE: Transferred from the department on aging and community services (450 IAC 1-2-3) to the division of aging and rehabilitative services (460 IAC 1-2-3) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 4. UNDER IC 4-22-2.5-3, 460 IAC 1-2-4 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

460 IAC 1-2-4 Division’s duties

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-3; IC 35-42-2-1; IC 35-46-1-13

Sec. 4. ~~IDACS~~ **DDARS** shall **do the following**:

- (1) Provide information and education to the general public regarding the existence of the adult protective services law and available services.
- (2) Prescribe the forms and procedures to be followed in the implementation of the program.
- (3) Contract with entities, as identified at ~~IC 4-27-7-5, IC 12-10-3-7,~~ to perform the duties of adult protective services units.
- (4) Provide training and technical assistance in program operation and service delivery to the units.
- (5) Monitor the program and fiscal activities of the units.
- (6) Receive all reports of known or suspected neglect, battery, or exploitation which are communicated in person, in writing or by telephone:

- (A) establish and operate a statewide toll-free telephone line, answered **twenty-four** (24) hours a day, seven **(7)** days a week;
 - (B) document the receipt of all reports, by obtaining all necessary information as per ~~IC 4-27-7-7~~; **IC 12-10-3-10**;
 - (C) make a determination and classify the status of each report upon receipt as either emergency or nonemergency;
 - (D) refer all emergency reports received to the appropriate law enforcement agency immediately, and notify the appropriate APS unit of the referral to the law enforcement agency; **and**
 - (E) refer all nonemergency reports received to the appropriate APS unit within **five** (5) working days.
- (7) Report to the general assembly before ~~December~~ **February 2** of each year concerning, at a minimum:
- (A) the ~~department's~~ **division's** activities in the preceding year under ~~IC 4-27-7~~; **IC 12-10-3**; and
 - (B) program recommendations for continuing protection of endangered adults.
- (Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-4; filed Oct 30, 1985, 10:48 a.m.: 9 IR 479) NOTE: Transferred from the department on aging and community services (450 IAC 1-2-4) to the division of aging and rehabilitative services (460 IAC 1-2-4) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 5. UNDER IC 4-22-2.5-3, 460 IAC 1-2-5 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

460 IAC 1-2-5 Adult protective services unit's duties

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-3; IC 35-42-2-1; IC 35-46-1-13

Sec. 5. The APS unit shall assure that the following activities are carried out:

- (1) Secure and maintain a full-time equivalent qualified protective services coordinator, as defined in ~~450 IAC 1-2-6~~; **460 IAC 1-2-6**.
- (2) Cooperate with ~~HACS~~ **DDARS** to provide information and education to the general public within the designated area regarding the existence of the adult protective services law and available services.
- (3) Accept all reports of adult battery, neglect and exploitation from individuals, health care and human service professionals, institutions, law enforcement officials, ~~HACS~~ **DDARS** and other sources.
- (4) Document the receipt of reports on the official report form developed by ~~HACS~~; **DDARS**, obtaining all available and pertinent information.
- (5) Conduct an investigation of all reports of battery, neglect, and exploitation to ascertain the condition and safety of the allegedly endangered adult:
 - (A) immediately when the possibility of physical danger to the adult exists; or
 - (B) as soon as possible after receipt of a report (within twenty calendar days).
- (6) Follow procedures for coordination with the Indiana state ~~board~~ **department** of health as per ~~IC 4-27-7-10~~; **IC 12-10-3-17**.
- (7) Maintain procedures for appropriate access to and for safeguarding of the confidentiality of records.
- (8) Be familiar with available community resources.
- (9) Seek cooperation from other public and private agencies and individuals in the geographic services region which offer services as may be needed by endangered adults.
- (10) Cooperate with all the APS units in Indiana.
- (11) Participate in ~~HACS-sponsored~~ **DDARS-sponsored** in-service training.
- (12) After initial investigation, proper notification that the report is unsubstantiated shall be made to concerned parties, at the discretion of the APS unit.
- (13) Report to ~~HACS~~ **DDARS** on forms provided by ~~HACS~~; **DDARS**, information concerning each report of battery, neglect, or exploitation received and investigated, within time frames established by ~~HACS~~; **DDARS**, including those reports made to the state ~~board~~ **department** of health.
- (14) Transmit to ~~HACS~~ **DDARS** all identifying records concerning unsubstantiated reports in accordance with ~~HACS~~ **DDARS** policy and procedures.
- (15) In instances of substantiated reports, obtain an assessment of the endangered adult's situation and needs and coordinate with the appropriate social services agencies who will develop a service plan for the provision of protective services (in cooperation with the endangered adult).
- (16) The plan for the provision of protective services shall be given to the endangered adult in writing, and shall include:
 - (A) a statement of the problem;
 - (B) one **(1)** or more goal statements;
 - (C) a description of the desired state of client functioning;
 - ~~(D)~~ **(D)** identification of the appropriate and least restrictive services;
 - ~~(E)~~ **(E)** the frequency and duration of anticipated service delivery; **and**

~~(F)~~ (F) the manner in which the effectiveness of the services will be monitored and evaluated.

(17) Approve said plan and assure that the available necessary protective services for the endangered adult are secured.

(18) Monitor and maintain complete documentation of the implementation of the protective services plan.

(19) Petition, through the prosecuting attorney's office, the court having probate jurisdiction in the county of the adult's residence, for an order to enjoin interference with the delivery of protective services arranged by the **department division** or unit with the consent of the endangered adult, when such interference is occurring.

(20) Petition the probate court having jurisdiction in the county in which the endangered adult resides, to secure a protective order requiring that the adult receive protective services, only when:

(A) the individual does not consent, or withdraws consent **previously previously** given, to the receipt of the protective services; and

(B) the individual is an endangered adult under ~~IC 4-27-7-2(1) and (2)~~; **IC 12-10-3-2(a)**; and

(C) the individual, in the opinion of the APS unit, lacks the capacity to understand the clear consequences of his or her decisions, in accordance with IC 29-1-18.

~~(i)~~ A petition for a protective order does not constitute an action for guardianship.

(21) When a protective order is required, approve and submit to the court, a plan for the provision of the protective services, which includes, at the minimum, the items identified in subsection (16) of this section.

(22) Petition the court to modify or terminate a protective services order, as necessary, as per ~~IC 4-27-7-11(e)(4)~~; **IC 12-10-3-25**;

(23) Petition the court to hold a hearing on the question of continuing jurisdiction, as per ~~IC 4-27-7-11(g)~~; **IC 12-10-3-26**.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-5; filed Oct 30, 1985, 10:48 a.m.: 9 IR 479) NOTE: Transferred from the department on aging and community services (450 IAC 1-2-5) to the division of aging and rehabilitative services (460 IAC 1-2-5) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 6. UNDER IC 4-22-2.5-3, 460 IAC 1-2-6 IS READOPTED TO READ AS FOLLOWS:

460 IAC 1-2-6 Coordinator's qualifications

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-3; IC 35-42-2-1; IC 35-46-1-13

Sec. 6. An adult protective services unit coordinator shall have, at a minimum:

(1) a bachelor's degree in an appropriate area of concentration, with one relevant internship; or

(2) two **(2)** years of experience in investigation or other relevant work.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-6; filed Oct 30, 1985, 10:48 a.m.: 9 IR 480) NOTE: Transferred from the department on aging and community services (450 IAC 1-2-6) to the division of aging and rehabilitative services (460 IAC 1-2-6) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 7. UNDER IC 4-22-2.5-3, 460 IAC 1-2-7 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

460 IAC 1-2-7 Complaints regarding residents of health facilities

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-3; IC 16-10-4; IC 35-42-2-1; IC 35-46-1-13

Sec. 7. ~~DAACS DDARS~~ and the APS unit shall:

(1) refer reports concerning individuals who are residents of health facilities licensed under IC 16-10-4 to the **Indiana state board department** of health immediately; and

(2) cooperate with the **Indiana state board department** of health in these cases and carry out the remaining activities of case processing at the request of the board;

~~(3) DAACS DDARS~~ shall notify the appropriate APS unit of the referral to the **Indiana state board department** of health, and all APS units shall notify ~~DAACS DDARS~~ of referrals to the **Indiana state board department** of health. *(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-7; filed Oct 30, 1985, 10:48 a.m.: 9 IR 480) NOTE: Transferred from the department on aging and community services (450 IAC 1-2-7) to the division of aging and rehabilitative services (460 IAC 1-2-7) by P.L.41-1987, SECTION 23, effective July 1, 1987.*

SECTION 8. UNDER IC 4-22-2.5-3, 460 IAC 1-2-8 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

460 IAC 1-2-8 Indiana state department of health; duties

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-3; IC 35-42-2-1; IC 35-46-1-13

Sec. 8. The **Indiana state board department** of health shall:

- (1) receive reports of endangered adults who are residents of facilities licensed under IC 16-10-4 from ~~HACS~~ **DDARS** and the APS units;
- (2) refer appropriate cases (as defined by the **Indiana state board department** of health) to ~~HACS~~ **DDARS** or the APS units for investigation, assessment and to assure the provision of protective services; **and**
- (3) send completed report forms for all reports of endangered adults, whether substantiated or unsubstantiated, and whether primarily reported to the **Indiana state board department** of health, ~~HACS~~ **DDARS** or the APS units to ~~HACS~~ **DDARS** for statistical and substantive records.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-8; filed Oct 30, 1985, 10:48 a.m.: 9 IR 480) NOTE: Transferred from the department on aging and community services (450 IAC 1-2-8) to the division of aging and rehabilitative services (460 IAC 1-2-8) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 9. UNDER IC 4-22-2.5-3, 460 IAC 1-2-9 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

460 IAC 1-2-9 Maintenance of records

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-3; IC 35-42-2-1; IC 35-46-1-13

Sec. 9. (a) **For** substantiated reports, ~~HACS~~ **DDARS** and the APS units shall maintain identifying records concerning:

- (1) reports which identify the endangered adult;
- (2) types of protective services provided and identity of the service provider(s); **and**
- (3) agencies, persons, or institutions who are determined to have permitted or inflicted neglect, battery, or exploitation.

(b) **For** unsubstantiated reports, ~~HACS~~ **DDARS** shall:

- (1) receive all identifying records concerning unsubstantiated reports (as determined by the APS units) from the APS units;
- (2) destroy identifying information on said records within **one hundred eighty** (180) days after the receipt of those records; **and**
- (3) maintain nonidentifying statistical records concerning unsubstantiated reports, and make this information available to the entities listed at ~~IC 4-27-7-9(b)~~: **IC 12-10-3-13**.

(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-9; filed Oct 30, 1985, 10:48 a.m.: 9 IR 481) NOTE: Transferred from the department on aging and community services (450 IAC 1-2-9) to the division of aging and rehabilitative services (460 IAC 1-2-9) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 10. UNDER IC 4-22-2.5-3, 460 IAC 1-2-10 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

460 IAC 1-2-10 Reporting battery, neglect, or exploitation

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-3; IC 35-42-2-1; IC 35-46-1-13

Sec. 10. (a) Persons shall report known or suspected neglect, battery, or exploitation of an adult ~~(+)~~ to ~~HACS~~; **DDARS**, an APS unit, or a law enforcement agency ~~(2)~~ by telephone, in writing, or in person.

(b) Confidentiality of reports:

- (1) the identity of the reporting person shall be kept confidential and be disclosed only with the written consent of that person or by judicial process;
- (2) in no event, however, shall the identity of the person who made the report be disclosed to an alleged abuser, except by judicial order.

(c) Classification and transmittal of reports:

- (1) every incident of neglect, battery, or exploitation which is received by the unit shall be reported to ~~HACS~~ **DDARS** on forms provided by ~~HACS~~ **DDARS** within **twenty** (20) calendar days of receiving the report;
- (2) within **thirty** (30) calendar days of completing the investigation, the unit shall make a determination and classify all reports as substantiated or unsubstantiated and transmit said determination to ~~HACS~~; **DDARS**;

(3) when the classification of a substantiated report has changed to unsubstantiated, the unit shall notify ~~HDACS~~ **DDARS** and transmit all identifying records as required in ~~450 IAC 1-2-5(14)~~; **section 5(14) of this rule.**
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-10; filed Oct 30, 1985, 10:48 a.m.: 9 IR 481) NOTE: Transferred from the department on aging and community services (450 IAC 1-2-10) to the division of aging and rehabilitative services (460 IAC 1-2-10) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 11. UNDER IC 4-22-2.5-3, 460 IAC 1-2-11 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

460 IAC 1-2-11 Rights of the alleged endangered adult

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-3; IC 35-42-2-1; IC 35-46-1-13

Sec. 11. (a) Right to counsel:

(1) At any time, a person who may be designated an endangered adult has the right to secure legal counsel; either a private attorney or if eligible, a legal services attorney.

(2) If the endangered adult does not consent or has withdrawn consent to receive protective services and a petition has been filed in probate court, the endangered adult is entitled:

(A) to be represented by counsel; **and**

(B) to have the court appoint counsel if said endangered adult is determined to be indigent.

(3) If the endangered adult is receiving protective services and an individual interferes with the provision of those services, the endangered adult is entitled to be represented by the prosecuting attorney's office in obtaining an order to enjoin the interference with the delivery of the service.

(b) The endangered adult has the right to protective services that offer the least restrictive alternative.

(c) The endangered adult has the right to privacy and confidentiality, within the boundaries of ~~IC 4-27-7~~; **IC 12-10-3.**

(d) The protective services plan must take into account, to the extent feasible, the expressed preferences of the endangered adult.

(e) A competent adult, even though endangered, has the right to refuse protective services. However, the APS unit should make every effort to fully inform the endangered adult of the benefits available from protective services, and of the problems which could be exacerbated if protective services were refused.

(f) The endangered adult has the right to have court-ordered protective ~~3~~ services reviewed by the court once every six **(6)** months.
(Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-11; filed Oct 30, 1985, 10:48 a.m.: 9 IR 481) NOTE: Transferred from the department on aging and community services (450 IAC 1-2-11) to the division of aging and rehabilitative services (460 IAC 1-2-11) by P.L.41-1987, SECTION 23, effective July 1, 1987.

SECTION 12. UNDER IC 4-22-2.5-3, 460 IAC 1-2-12 IS READOPTED AND AMENDED TO READ AS FOLLOWS:

460 IAC 1-2-12 Appeal rights of the allegedly endangered adult

Authority: IC 12-8-8-4; IC 12-9-2-3

Affected: IC 12-10-3; IC 35-42-2-1; IC 35-46-1-13

Sec. 12. (a) An endangered adult, aggrieved by an action of the adult protective services unit or by ~~HDACS~~; **DDARS** regarding adult protective services may appeal that action to ~~HDACS~~; **DDARS**, after attempting to resolve the problem with the APS unit.

(b) The decision to conduct an investigation pursuant to a report under ~~IC 4-27-7~~; **IC 12-10-3**, is not appealable.

(c) The request for a hearing must be submitted in writing and signed by the appellant or his/her representative. This request must be received by ~~HDACS~~ **DDARS** within 30 calendar days of the appellant's notification of the action being appealed.

(d) ~~HDACS~~ **DDARS** shall hold the hearing within 30 calendar days after receipt of the request for a hearing.

(e) The hearing shall be conducted in accordance with the Indiana Administrative ~~Adjudication~~ **Orders and Procedures Act**, ~~IC~~

~~4-22-1~~; IC 4-21.5.

(f) ~~DDARS~~ shall notify the appellant and the adult protective services unit by registered mail of the appeal decision within **ten** (10) calendar days after the hearing. (*Division of Disability, Aging, and Rehabilitative Services; 460 IAC 1-2-12; filed Oct 30, 1985, 10:48 a.m.: 9 IR 482*) NOTE: Transferred from the department on aging and community services (450 IAC 1-2-12) to the division of aging and rehabilitative services (460 IAC 1-2-12) by P.L.41-1987, SECTION 23, effective July 1, 1987.

Notice of Public Hearing

Under IC 4-22-2-24 and IC 4-22-2.5-4, notice is hereby given that on April 4, 2001 at 2:30 p.m., at the Indiana Government Center-South, 402 West Washington Street, Room W451, Conference Room A, Indianapolis, Indiana the Division of Disability, Aging, and Rehabilitative Services will hold a public hearing to readopt rules.

Requests for any part of this readoption to be separate from this action must be made in writing within 30 days of this publication. Send written comments to:

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Kevin Wild

FSSA Office of General Counsel

Indiana Government Center-South

402 West Washington Street, Room W451

Indianapolis, Indiana 46204

Copies of these rules are now on file at the Division of Disability, Aging, and Rehabilitative Services, Indiana Government Center-South, 402 West Washington Street, Room W451 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Bobby L. Conner
Director
Division of Disability, Aging, and Rehabilitative Services