



State of Illinois
Illinois Department on Aging

Adult Protective Services Program
**Regional Inter-Agency
Fatality Review Teams
Manual**

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Table of Contents

I.	Acknowledgement.....	4
II.	Introduction.....	4
III.	Statement of Purpose.....	4
IV.	Team Membership	5
V.	Selection of Team Members	5
VI.	Team Member Responsibilities	6
VII.	Non-Member Attendance	7
VIII.	Illinois Open Meetings Act.....	7
IX.	Meetings.....	8
X.	Cases Reviewed	9
XI.	Team Access to Information.....	10
XII.	Public Access to Information.....	10
XIII.	Confidentiality	10
XIV.	Guidelines for Formulating Recommendations	11
XV.	Data Management.....	12
XVI.	Fatality Review Advisory Council.....	13
XVII.	Membership	14

APPENDICES

Appendix A: Adult Protective Service Act [320 ILCS 20/1 et seq.]..... 16

Appendix B: Roberts Rules Summary 39

Appendix C: Team Member Confidentiality Agreement Form..... 40

Appendix D: Guest Participant Confidentiality Agreement Form..... 41

Appendix E: Meeting Confidentiality Agreement Form 42

Appendix F: FRT Appointment Form 43

Appendix G: FRT Member Reappointment Form 44

Appendix H: FRT Member Termination Form..... 45

I. ACKNOWLEDGEMENT

The Illinois Department on Aging (hereafter referred to as “Department”) would like to acknowledge the dedication of those professionals who served on the Kane County Elder Abuse Fatality Review Team from 2005-2008.

Many individuals and organizations from Kane County contributed to the impetus and guidance in establishing elder abuse fatality review teams in Illinois in absolutely crucial ways. All of those involved deserve recognition and gratitude. The Kane County Elder Abuse Fatality Review Team provided the necessary expertise and guidance to assist in drafting this Fatality Review Team Manual and helped with the passage of Public Act 95 – 402 (effective 6-1-08) which authorizes the statewide establishment of Elder Abuse Fatality Review Teams.

Effective July 1, 2013, legislation was passed by the General Assembly to expand the Elder Abuse and Neglect Program to the Adult Protective Services Program. **The program is responsible for investigating abuse, neglect and financial exploitation of persons 60 years or older and adults with disabilities aged 18-59 living in a domestic setting (320 ILCS 20/3).**

II. INTRODUCTION

A Fatality Review Team (FRT) is a regional interagency group established under Section 15 (b) of the Adult Protective Services Act [320 ILCS 20/15(b)].

FRTs may vary in some practices based on the types of cases and availability of members to serve on them. This Manual is intended to provide guidance to FRTs as they establish the practices that best serve the goals of FRTs in their regions.

Some practices are required by statute or rule and will be referenced as such. Other practices relate to the need for consistency of method and documentation for the statewide database.

III. STATEMENT OF PURPOSE

The purpose of FRTs in conducting reviews of at-risk adult deaths is (1) to assist agencies in identifying and reviewing suspicious deaths of victims of alleged, suspected, or substantiated abuse or neglect in domestic living situations; (2) to facilitate communications between officials responsible for autopsies and inquests and persons involved in reporting or investigating alleged or suspected cases of abuse, neglect, or financial exploitation of at-risk adults and persons involved in providing services to at-risk adults; (3) to evaluate means by which the death might have been prevented; and (4) to report its finding to the appropriate agencies and the Illinois Fatality Review Team Advisory Council and make recommendations that may help to reduce the number of at-risk adult deaths caused by abuse and neglect and that may help to improve the investigations of deaths of at-risk adults and increase prosecutions, if appropriate [320 ILCS 20/15(b)].

A domestic living situation means a residence where the eligible adult at the time of the report lives alone or with his or her family or a caregiver, or others, or other community-based unlicensed facility [320 ILCS 20/2(d)].

FRTs will identify whether methods whose purpose or responsibility is to assist or protect victims were sufficient for the particular circumstances or whether such methods require adjustment or improvement.

It is anticipated that by carefully examining these fatalities and implementing necessary changes, the resulting outcome will: 1) lead to improvement in the response to adult victims of abuse, neglect and exploitation and 2) prevent similar outcomes in the future.

IV. TEAM MEMBERSHIP

An FRT shall be composed of representatives of entities and individuals including, but not limited to the following:

- (1) the Department on Aging;
- (2) coroners or medical examiners (or both);
- (3) State's Attorneys;
- (4) local police departments;
- (5) forensic units;
- (6) local health departments;
- (7) a social service or health care agency that provides services to persons with mental illness, in a program whose accreditation to provide such services is recognized by the Division of Mental Health within the Department of Human Services;
- (8) a social service or health care agency that provides services to persons with developmental disabilities, in a program whose accreditation to provide such services is recognized by the Division of Developmental Disabilities within the Department of Human Services;
- (9) a local hospital, trauma center, or provider of emergency medicine;
- (10) providers of services for eligible adults in domestic living situations; and
- (11) a physician, psychiatrist, or other health care provider knowledgeable about abuse and neglect of at-risk adults [320 ILCS 20/15 (b-5)].

Each FRT must have a **Designated Coordinator** (hereafter referred to as "Coordinator"). The Coordinator, in consultation with the Regional Administrative Agency and Department, shall initiate the establishment of a regional FRT. As such, the Coordinator may call the first organizational meeting of the team.

Team members should possess good communication skills, especially that of active listening. Members should have a genuine care and interest in older adults and adults with disabilities. Importantly, team members should be committed to team goals and recognize the need to regularly attend meetings, so as to ensure the most cohesive and effective team possible.

V. SELECTION OF TEAM MEMBERS

Each member of an FRT shall be appointed/reappointed by the Illinois Department on Aging Director (hereafter referred to as "IDoA Director") to a 2-year term and shall be eligible for reappointment upon the expiration of the term [320 ILCS 20/15(b)].

Appointments to fill unexpired vacancies shall be made in the same manner as original appointments. An FRT may declare a vacancy for a member when it determines that a member has resigned, no longer resides in Illinois, failed to maintain professional responsibilities, or has become incapacitated and rendered incapable of serving or performing duties as a member.

Reappointment of a member of the FRT will be automatically made unless the Director and the member are notified at least 30 days before the term ends that the Advisory Council will recommend another person or a resignation is received from the member. All successive appointments shall be for a term of two years. No member shall be reappointed if his or her reappointment would cause any conflict of interest.

The FRT shall select from its members a Chairperson and a Vice Chairperson. Each position shall be for a 2-year term. The Chairperson and Vice Chairperson may be selected to serve additional, subsequent terms.

The Director may terminate the appointment of any member prior to the end of a term based on the recommendations of the Chairperson for good cause, which includes, but is not limited to, unjustified absences or failure to meet FRT responsibilities or failure to maintain professional position [320 ILCS 20/15 (b-5)].

VI. TEAM MEMBER RESPONSIBILITIES

A member shall serve at his or her own expense and must abide by all applicable ethical laws. All licensed professionals must be in good standing within their profession.

A team member shall respect and comply with all matters regarding confidentiality according to the Adult Protective Services Act [320 ILCS 20/15(d)].

A team member shall act professionally with respect and support for one another. A member who fails to commit to this professional code shall not be allowed to continue to serve on the team and shall be notified of termination by the IDoA Director and/or Coordinator.

Team members shall have no pending or substantiated reports of abuse or neglect, and no pending or criminal conviction of any offenses set forth under the Health Care Worker Background Check Act (225 ILCS 46).

In any instance where an FRT does not operate in established protocol, the IDoA Director, in consultation and cooperation with the Advisory Council, must take any necessary actions to bring the FRT into compliance with the protocol [320 ILCS 20/(c-5)].

Team members must attend, at a minimum, 50% of the meetings in a calendar year to maintain membership. Team members are allowed to designate another representative of their agency to replace them at a meeting they are unable to attend, though such representatives are not accorded voting rights.

If a member is prevented from attending an FRT meeting for any reason, the member must provide prior notice by contacting IDoA, the Chairperson, Vice Chairperson or Coordinator. Likewise, if team members are unable to fulfill their role for any reason, they are expected to inform IDoA, the Chairperson, Vice Chairperson or Coordinator.

Team members must complete the Open Meetings Act electronic training within 90 days of appointment by the IDoA Director and provide a copy of the certificate to the Chairperson, Vice Chairperson or Coordinator.

Team members must sign all confidentiality agreements at each meeting attended.

The Chairperson shall perform all duties required by law and preside at all FRT meetings. The Chairperson shall rule on issues of order and procedure and shall take other such actions as necessary for the efficient and orderly conduct of reviews unless directed otherwise by the FRT.

The Vice Chairperson shall serve in the absence of the Chairperson and have all the powers of the Chairperson during the Chairperson's absence, disability or disqualification.

The Coordinator shall serve as the recorder and shall keep minutes of all meetings. The Coordinator shall collect and disseminate all relevant case review materials to team members.

The Coordinator shall oversee the collection and disposition of all case review materials upon completion of the review. The Coordinator shall also keep records of all correspondence, findings and recommendations prepared by the team. The coordinator shall collect all confidentiality agreements signed by attendees.

Team members will establish criteria to be used in discussing cases of alleged, suspected or substantiated cases of abuse or neglect for review and shall conduct its activities in accordance with any applicable policies and procedures established by the Department.

VII. NON-MEMBER ATTENDANCE

Chairpersons, Co-chairs or Coordinators may consider the utilization of other professional experts, while conducting certain reviews, on a case by case basis.

Team members may bring trainees to a meeting with the prior approval of the Chairperson and the team.

All invited non-members are bound by the same confidentiality agreements as team members. It is the responsibility of the Coordinator that all non-members who attend "closed meeting sessions" sign a confidentiality statement prior to the start of the meeting.

Non-invited non-members may attend FRT meetings according to the provisions of the "Open Meetings Act." All non-members shall leave the meeting prior to a "closed meeting session."

Non-members are not required to complete the Open Meetings Act training.

VIII. ILLINOIS OPEN MEETINGS ACT

The purpose of the Open Meetings Act (*5 ILCS 120*) is to ensure that the actions of public bodies are taken openly and that their deliberations are conducted openly. It also provides that the public be given advance notice of and the right to attend all meetings at which any business of the public body is discussed or action is undertaken in anyway. To further the policy, the Illinois General Assembly has instituted a one-time electronic training requirement for members of public bodies through the Attorney General's Office. The Open Meetings Act is designed to ensure that the public has access to information about government and its decision-making process.

FRTs shall conduct their meetings according to the Open Meetings Act. However, portions of meetings of the FRTs or the Advisory Council during which the discussion of the death of an eligible adult in which abuse or neglect is suspected, alleged or substantiated shall be closed to the public [*5 ILCS 120/2(c)(30)*].

IX. MEETINGS

An FRT shall not meet less than four times annually (P.A. 99-0530) to discuss cases for its possible review [320 ILCS 20/15(c)].

Public meetings must be open to the public and held at times and locations convenient to the public.

All deliberations of the FRT and its subcommittees shall be governed by Robert's Rules of Order (11th Edition).

A quorum of members must be physically present at the location of an open and closed meeting [5 ILCS 120/2.01].

If a member is prevented from physically attending an FRT meeting due to personal illness or disability, employment purposes or the business of the public body, or a family or other emergency, the member must provide prior notice by contacting the Chairperson, Vice Chairperson or Coordinator. The member may attend a meeting by audio or video conference, but will not count towards the quorum, unless the FRT has adopted its own rules as to attendance, which may be more restrictive.

FRTs shall give public notice of a schedule of all meetings, whether open or closed to the public, at the beginning of each calendar or fiscal year. Public notice shall state the meetings' times, dates and locations. [5 ILCS 120/2.02].

Public notice and an agenda are required to be posted at least 48 hours in advance of each meeting at the office of the public body. If the meeting will not be held at the office of the public body, public notice shall also be posted at the location where the meeting is to be held. If a principle office does not exist, notice shall be given at the building where the meeting is to be held. A public body that has a website maintained by a full-time staff member must also post the agenda of any regular meeting on its website, and leave the agenda posted until the regular meeting is concluded.

The schedule of regular meetings which the public bodies are required to post each year must be "available" to the public (5 ILCS 120/2.03), presumably at the principal office of the public body, and must be posted on its website, if applicable. The schedule must remain on the website until a new public notice of the schedule of regular meetings is approved [5 ILCS 120/2.02(b)].

Public notice of any special meeting (except a meeting held in the event of a bona fide emergency) or of any rescheduled regular meeting, or any reconvened meeting shall be given 48 hours in advance. Notice shall include agenda for the special, rescheduled, or reconvened meeting.

If a change is made in the regular meeting dates, at least 10 days' notice of such change shall be given by publication in a newspaper of general circulation in the area in which such body functions. Notice of such change shall also be posted at the principal office of the public body, or if no such office exists, at the building in which the meeting is to be held.

FRTs must keep written minutes of all of meetings, whether open or closed, and a verbatim record of all their closed meetings in the form of an audio or video recording.

FRT written minutes for open meetings shall include, but not be limited to: (1) the date, time and place of the meeting; (2) the members of the public body recorded as either present or absent, and, if present, whether physically present or by video or audio conference; (3) a summary of discussion on all matters proposed, deliberated, or decided; and (4) a record of any votes taken. The summary of discussion must

include sufficient data so that either the FRT or a court examining the minutes will be able to ascertain what was discussed, the substance of the discussion and if any action was taken. The minutes shall be approved within 30 days after that meeting or at the second sequent regular meeting, whichever is later. The minutes of meetings shall be available for public inspection and posted to the public body's website (if applicable) within 10 days of the approval of such minutes by the FRT.

Upon a majority vote of a quorum present, the FRT may go into a closed meeting session. The vote of each member on the question of holding a closed session, as well as the citation to the exception authorizing the closed session, must be publicly disclosed at the time of the vote and recorded and entered in the minutes. A closed session can also be held to review and approve minutes of a previously held meeting.

The verbatim recording of a closed session must be kept confidential and may be destroyed no less than 18 months after completion of the recorded meeting. A particular recording may be destroyed only after the FRT approves its destruction, approves written minutes of the closed session concerned, and there is no legal action pending concerning the meeting. Recordings of closed sessions shall be made available only after the FRT determines that it is no longer necessary to protect the public interest or the privacy of an individual by keeping them confidential. Verbatim records of closed sessions are exempt from disclosure under the Freedom of Information Act.

FRTs shall, semi-annually, meet to review the minutes of closed sessions that have occurred and determine whether those minutes need to remain confidential. If it is determined that the minutes no longer need to remain confidential, the minutes must be made available to the public. Minutes of closed sessions are exempt from inspection under the Freedom of Information Act only until the FRT makes them available to the public.

The Coordinator shall be responsible for the securing and filing of all open and closed meetings' written minutes and recordings.

X. CASES REVIEWED

An FRT shall review cases of deaths of at-risk adults occurring in its planning and service area involving blunt force trauma or an undetermined manner or suspicious cause of death. Others may be reviewed if requested by the deceased's attending physician or emergency room physician or upon referral by a health care provider or coroner/medical examiner.

An FRT may review an opened or closed case from an adult protective services agency, law enforcement agency, State's Attorney's Office or the Department of Human Services' Office of the Inspector General that involves alleged or suspected abuse, neglect or financial exploitation.

An FRT may review cases referred by law enforcement or the State's Attorney's Office.

FRTs should not review cases that are currently being prosecuted by the State's Attorney or under review by a coroner or medical examiner.

FRTs may also review deaths of at-risk adults if the alleged abuse or neglect occurred while the person was residing in a domestic living situation.

The Coordinator, Chairperson or Vice Chairperson may ask team members to assist in deciding on cases to be selected for review. Team members may also suggest cases for review based on their professional experience and case criteria.

The Coordinator, Chairperson or Vice Chairperson shall lead the case review process. Each review shall include an oral report and brief synopsis from each FRT member involved with the client case. FRT members shall review all known and available facts and information regarding the deceased client's case.

The review of cases is a serious matter. Discussions surrounding the events of the investigations are formal and solemn. Respect for those involved should be given the utmost attention. Members should be prepared for case reviews, as photos of the adult's autopsy and circumstances may be presented.

XI. TEAM ACCESS TO INFORMATION

FRTs may request information and records regarding a deceased adult as necessary to carry out the purpose and duties of the team. Background and current information from the records of team members and other sources may be needed to assess circumstances of the death.

The Adult Protective Services program provider agency shall provide to the FRT, at the request of the Coordinator, Chair or Vice Chair, all records and information that are relevant to the team's review of an adult's death, including records and information concerning previous reports of investigations.

XII. PUBLIC ACCESS TO INFORMATION

All FRT meetings shall be open to the public unless exempted by Section 2(c) of the Open Meetings Act and closed in accordance with Section 2a of the Open Meetings Act.

XIII. CONFIDENTIALITY

In order to ensure an effective and well-functioning team, it is important that confidentiality be assured. Information obtained from social service reports, court documents, police records, coroner and autopsy reports, mental health records, hospital or medical records and any other information that may have a bearing on the deceased adult and family involved shall remain confidential.

Records and information provided to and maintained by the FRT are exempt from release under the Freedom of Information Act.

Any document or oral or written communication shared within or produced by an FRT relating to a case discussed or reviewed by the team is confidential and is not admissible as evidence in any civil or criminal proceeding, except for use by a State's Attorney's office in prosecuting a criminal case against a caregiver. Those records and information are, however, subject to discovery or subpoena, and are admissible as evidence to the extent they are otherwise available to the public.

Each entity or individual represented on the FRT may share with other members of the FRT information in the entity's or individual's possession concerning the decedent, who is the subject of the review, or concerning any person who was in contact with the decedent, as well as any other information deemed to be pertinent to the review. Any such information shared by an entity or individual with other members of an FRT is confidential.

Release of confidential communication between domestic violence advocates and a domestic violence victim shall follow subsection (d) of Section 227 of the Illinois Domestic Violence Act of 1986, which allows for the waiver of privilege afforded to guardians, executors, or administrators of the estate of the domestic violence victim. The provision relating to the release of confidential communication between domestic violence advocates and a domestic violence victim shall exclude adult protective service providers.

A coroner's or medical examiner's office may share with an FRT medical records that have been made available to the coroner's or medical examiner's office in connection with that office's investigation of a death [320 ILCS 20/15(d)].

It is the policy of FRTs that information analyzed during case reviews, remain confidential. To accomplish this, FRTs will adhere to the following guidelines:

- 1) Each team member will sign a **Team Member Confidentiality Agreement** at the time of his or her appointment or participation with the team, regarding closed session case reviews. (See Appendix 42)
- 2) Each team member will sign a **Meeting Confidentiality Agreement** upon each closed session case review. (See Appendix 44)
- 3) Case reviews are closed to the public.
- 4) The Chairperson, Vice Chairperson or Coordinator must approve all non-member attendance in advance. Regular team members should not send a substitute in their place without prior approval.
- 5) FRT members or participants will agree to keep client and case discussion proceedings of the FRT confidential.
- 6) FRT members or participants will agree to keep all records, information, and/or data associated with the client and case proceedings confidential and must sign a guest Confidentiality Agreement (see Appendix)
- 7) FRT members or participants will agree to return to the Coordinator, at the conclusion of a meeting, all shared confidential client/case discussion records, information and/or any data relating to the client case review.
- 8) Data will be collected and reported in aggregate form only by the Chairperson, Vice Chairperson, or Coordinator.
- 9) The Coordinator is responsible for the securing and filing of all signed confidentiality forms.

XIV. GUIDELINES FOR FORMULATING RECOMMENDATIONS

An FRT's recommendation in relation to a case discussed or reviewed by the team, including but not limited to, a recommendation concerning an investigation or prosecution in relation to such a case, may be disclosed by the review team upon the completion of its review and at the discretion of a majority of its members who reviewed the case.

Members of the FRT shall have no individual liability in an action based upon a disciplinary proceeding or other activity performed in good faith as a member of the FRT. The state shall indemnify and hold harmless members of an FRT for all their acts, omissions, decisions, or other conduct arising out of the scope of their service, except those involving willful or wanton misconduct, according to the State Employee Indemnification Act [320 ILCS 20/15 (e-5)].

The purpose of recommendations is to prevent and/or reduce future adult abuse and neglect related deaths. Recommendations may focus on establishing new policies and protocols, improving existing policies and protocols, raising public awareness and/or increasing the effectiveness of services provided to adults and their families.

Caution and care are needed to ensure that the objective of improving and facilitating communications amongst the various agencies is fulfilled. Recommendations made by the FRTs should be carefully worded to assure they are not interpreted as a finding of fault or failure to provide services.

Recommendations should be focused, specific, and accompanied by a rationale. Broad or non-specific recommendations are discouraged. Recommendations are not always necessary in cases where the death was preventable through reasonable means or if no changes to existing programs or practices are needed.

When recommendations are made, a written justification should be included. Recommendations may fall into one of four categories.

- 1) The first category is **Case Specific**. These types of recommendations focus solely on the specific case that is reviewed. For example, an FRT may review a case file and determine that there is a need to assure others living in the same household (as the deceased client) are not at risk of harm.
- 2) The second category is that of **Prevention**. These recommendations may focus on public awareness and public education issues.
- 3) **IDoA APS Policy and Procedure**. These recommendations center on the need to improve a policy or procedure established by APS in responding to cases of adult abuse.
- 4) The fourth category focuses on **Public Services**. These recommendations would be directed toward various public service agencies such as the fire department, law enforcement, paramedics or emergency medical technicians regarding a need to revise and or improve their service response.

The Coordinator shall be responsible for securing and filing all of the FRTs written recommendations.

XV. DATA MANAGEMENT

The Department, in consultation with coroners, medical examiners, and law enforcement agencies, shall use aggregate data gathered by all FRTs' recommendations to create an annual report (**CITE**). The Department may use the data and recommendations to develop education, prevention, prosecution, or other strategies designed to improve the coordination of services for at-risk adults and their families.

The Department, or other state or county agencies, in consultation with coroners, medical examiners, law enforcement agencies, fire departments and fire protection units also may use aggregate data gathered by all FRTs to create a database of at-risk individuals.

Upon review of a case, the Coordinator shall complete an aggregate data collection form. Information from this form may be used for formulating recommendations and entered into the FRT's database. The FRT Case Review/Data Collection Form shall be secured and filed by the Coordinator.

XVI. FATALITY REVIEW TEAM ADVISORY COUNCIL

The Advisory Council has, but is not limited to, the following duties:

Serve as the voice of FRTs in Illinois;

Oversee the review teams in order to ensure that work is coordinated and in compliance with State statutes and operation protocols;

Ensure that the data, results, findings and recommendations of the FRTs are adequately used in a timely manner to make any necessary changes to the policies, procedures, and State statutes in order to protect at-risk adults;

Collaborate with IDoA in order to develop any legislation needed to prevent unnecessary deaths of at-risk adults;

Ensure that FRTs use standardized processes in order to convey data, findings, and recommendations in a usable format;

Serve as a link with FRTs throughout the country and to participate in national review team activities;

Provide the FRTs with the most current information and practices concerning at-risk adult death review and related topics;

Perform any other functions necessary to enhance the capability of the FRTs to reduce and prevent at-risk adult fatalities; [20/15 c-5]

Upon request of the IDoA Director, review the death of an at-risk adult that occurs in a planning and service area where an FRT has not yet been established;

All papers, issues, recommendations, reports and meeting memorandum will be advisory only. The Director, or designee, will make a written response/report, as requested, regarding issues before the Advisory Council;

The IDoA Director retains full decision-making authority for the APS Program regarding any recommendations presented by the Advisory Council;

Records and information provided to the Advisory Council, and records maintained by the Advisory Council, are exempt from release under the Freedom of Information Act;

The Advisory Council may prepare an annual report, in consultation with the Department, using aggregate data gathered by and recommendations from regional FRTs to develop education, prevention, prosecution, or other strategies designed to improve the coordination of services for at-risk adults and their families;

The Department, in consultation with coroner, medical examiners, and law enforcement agencies, shall use aggregate data gathered by and recommendations from the Advisory Committee to create an annual report;

The Department, in consultation with coroners, medical examiners, and law enforcement agencies, may use aggregate data gathered by and recommendations from the Advisory Council to develop education, prevention, prosecution, or other strategies designed to improve the coordination of services for at-risk adults and their families.

Members of the Advisory Council shall have no individual liability in an action based upon a disciplinary proceeding or other activity performed in good faith as the member of the Advisory Council.

The State shall indemnify and hold harmless members of an FRT for all their acts, omissions, decisions, or other conduct arising out of the scope of their service, except those involving willful or wanton misconduct [320 ILCS 20/15(e-5)].

XVII. MEMBERHIP

The IDoA Director shall solicit information about individuals interested in being named as a member to serve the Advisory Council from each of the regional FRTs.

The Advisory Council may declare a vacancy for a member when it determines that a member has resigned, no longer resides within the state of Illinois, failed to maintain the professional position outlined in subsection (b)(1), or has become incapacitated and rendered incapable of service or performing duties as a member. A vacancy shall be filled as soon as possible.

Re-appointment of members of the Advisory Council will be automatically made unless the IDoA Director or the member are notified at least 30 days before the term ends that the respective regional FRT will recommend another person or a resignation is received from the member. All successive appointments shall be for a term of 2 years. No member shall be reappointed if his or her reappointment would cause any conflict.

The IDoA Director may terminate the appointment of any member prior to the end of a term based on the recommendation of the Chairperson for good cause, which includes, but is not limited to, unjustified absence or failure to meet Advisory Council responsibilities.

The Advisory Council shall select from its members a Chairperson and a Vice Chairperson. Each position shall be for a 2-year term. The Chairperson and Vice Chairperson may be selected to serve additional, subsequent terms.

The Chairperson of the Advisory Council shall perform the duties ordinarily ascribed to this position, preside at all meetings of the council, and make reports on behalf of the council as may be required.

In the event of the Chairperson's inability to act, the Vice Chairperson shall act in his or her absence.

The Director may also appoint any ex-officio members deemed necessary to this Advisory Council, including a staff member of IDoA to maintain records, prepare notices, and agendas for each meeting, provide technical assistance, and otherwise assist in carrying out the administrative functions of the Advisory Council.

A member shall serve at his or her own expense and must abide by all applicable ethics laws. All licensed professionals must be in good standing within their profession. All members of the Advisory Council shall have no pending or substantiated report of abuse or neglect, and no pending or criminal conviction of any offenses set forth under the Health Care Worker Background Check. Advisory Council members are to recuse themselves from sitting on any matter involving an employee of an agency at which the member is an employee or contractual employee or any matter involving a person known by the member, or if the member has a personal or professional interest in the matter that would interfere with the member's ability to exercise objectivity or has any bias against the other person.

The Advisory Council shall meet at least 4 times during each calendar year.

An agenda of scheduled business for deliberation shall be developed in coordination with the Department and the Chairperson.

The meetings shall take place at locations, dates, and times determined by the Chairperson of the Advisory Council after consultation with members of the Advisory Council and the Director or the designated Department staff member.

It shall be the responsibility of the designated Department staff member at the direction of the Chairperson to give notices of the locations, dates, and time of meetings to each member of the Advisory Council and to the Director at least 30 days prior to each meeting.

A majority of the currently appointed and serving Advisory Council members shall constitute a quorum. A vacancy in the membership of the Advisory Council shall not impair the right of a quorum to perform all of the duties of the Advisory Council and its subcommittees shall be governed by Robert's Rules of Order.

Upon majority approval of the Advisory Council a member may attend any meeting by video or audio conference in accordance with the Open Meetings Act provided adequate equipment can reasonably be made available and that participating is audible to all other members.

Meetings of the Advisory Council may be closed to the public under the Open Meetings Act.

APPENDIX A

Sec. 1. Short title.

This Act shall be known and may be cited as the Adult Protective Services Act.

Sec. 2. Definitions.

As used in this Act, unless the context requires otherwise:

- (a) **“Abuse”** means causing any physical, mental or sexual injury to an eligible adult, including exploitation of such adult’s financial resources.

Nothing in this Act shall be construed to mean that an eligible adult is a victim of abuse, neglect, or self-neglect for the sole reason that he or she is being furnished with or relies upon treatment by spiritual means through prayer alone, in accordance with the tenets and practices of a recognized church or religious denomination.

Nothing in this Act shall be construed to mean that an eligible adult is a victim of abuse because of health care services provided or not provided by licensed health care professionals.

- (a-5) **“Abuser”** means a person who abuses, neglects, or financially exploits an eligible adult.
- (a-6) **“Adult with disabilities”** means a person age 18 through 59 who resides in a domestic living situation and whose disability as defined in subsection (c-5) impairs his or her ability to seek or obtain protection from abuse, neglect, or exploitation.
- (a-7) **“Caregiver”** means a person who either as a result of a family relationship, voluntarily, or in exchange for compensation has assumed responsibility for all or a portion of the care of an eligible adult who needs assistance with activities of daily living or instrumental activities of daily living.
- (b) **“Department”** means the Department on Aging of the state of Illinois.
- (c) **“Director”** means the Director of the Department.
- (c-5) **“Disability”** means a physical or mental disability, including, but not limited to, a developmental disability, an intellectual disability, a mental illness as defined under the Mental Health and Developmental Disabilities Code, or dementia as defined under the Alzheimer’s Disease Assistance Act.
- (d) **“Domestic living situation”** means a residence where the eligible adult lives alone or with his or her family or a caregiver, or others, or other community-based unlicensed facility, but is not:
- (1) A licensed facility as defined in Section 1-113 of the Nursing Home Care Act;
 - (1.5) A facility licensed under the ID/DDD Community Care Act;
 - (1.7) A facility licensed under the Specialized Mental health Rehabilitation Act of 2013;
 - (2) A “life care facility” as defined in the Life Care Facilities Act;
 - (3) A home, institution, or other place operated by the federal government or agency thereof or by the state of Illinois;

- (4) A hospital, sanitarium, or other institution, the principal activity or business of which is the diagnosis, care, and treatment of human illness through the maintenance and operation of organized facilities therefor, which is required to be licensed under the Hospital Licensing Act;
 - (5) A “community living facility” as defined in the Community Living Facilities Licensing Act;
 - (6) (Blank);
 - (7) A “community-integrated living arrangement” as defined in the Community-Integrated Living Arrangements Licensure and Certification Act or a “community residential alternative” as licensed under the Act;
 - (8) An “assisted living” or “shared housing establishment” as defined in the Assisted Living and Shared Housing Act; or
 - (9) A “supportive living facility” as described in Section 5-5.01a of the Illinois Public Aid Code.
- (e) **“Eligible adult”** means either an adult with disabilities age 18 – 59 or a person age 60 or older who resides in a domestic living situation and is, or is alleged to be, abused, neglected, or financially exploited by another individual or who neglects himself or herself.
- (f) **“Emergency”** means a situation in which an eligible adult is living in conditions presenting a risk of death or physical, mental or sexual injury and the provider agency has reason to believe the eligible adult is unable to consent to services which would alleviate that risk.
- (f-1) **“Financial exploitation”** means the use of an eligible adult’s resources by another to the disadvantage of that adult or the profit or advantage of a person other than the adult.
- (f-5) **“Mandated reporter”** means any of the following persons while engaged in carrying out their professional duties:
- (1) a professional or professional’s delegate while engaged in: (i) social services, (ii) law enforcement, (iii) education, (iv) the care of an eligible adult or eligible adults, or (v) any of the occupations required to be licensed under the Clinical Psychologist Licensing Act, the Clinical Social Work and Social Work Practice Act, the Illinois Dental Practice Act, the Dietitian Nutritionist Practice Act, the Marriage and Family Therapy Licensing Act, the Medical Practice Act of 1987, the Naprapathic Practice Act, the Nursing Practice Act, the Nursing Home Administrators Licensing and Disciplinary Act, the Illinois Occupational Therapy Practice Act, the Illinois Optometric Practice Act of 1987, the Pharmacy Practice Act, the Illinois Physical Therapy Act, the Physician Assistant Practice Act of 1987, the Podiatric Medical Practice Act of 1987, the Respiratory Care Practice Act, the Professional Counselor and Clinical Professional Counselor Licensing and Practicing Act, the Illinois Speech-Language Pathology and Audiology Practice Act, the Veterinary Medicine and Surgery Practice Act of 2004, and the Illinois Public Accounting Act;

- (1.5) an employee of an entity providing developmental disabilities services or service coordination funded by the Department of Human Services;
 - (2) an employee of a vocational rehabilitation facility prescribed or supervised by the Department of Human Services;
 - (3) an administrator, employee, or person providing services in or through an unlicensed community-based facility;
 - (4) any religious practitioner who provides treatment by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination, except as to information received in any confession or sacred communication enjoined by the discipline of the religious denomination to be held confidential;
 - (5) field personnel of the Department of Healthcare and Family Services, Department of Public Health, and Department of Human Services, and any county or municipal health department;
 - (6) personnel of the Department of Human Services, the Guardianship and Advocacy Commission, the State Fire Marshal, local fire departments, the Department on Aging and its subsidiary Area Agencies on Aging and provider agencies, and the Office of State Long-Term Care Ombudsman;
 - (7) any employee of the state of Illinois not otherwise specified herein who is involved in providing services to eligible adults, including professionals providing medical or rehabilitation services and all other persons having direct contact with eligible adults;
 - (8) a person who performs the duties of a coroner or medical examiner; or
 - (9) a person who performs the duties of a paramedic or an emergency medical technician.
- (g) **“Neglect”** means another individual’s failure to provide an eligible adult with or willful withholding from an eligible adult the necessities of life including, but not limited to, food, clothing, shelter or health care. This subsection does not create any new affirmative duty to provide support to eligible adults. Nothing in this Act shall be construed to mean that an eligible adult is a victim of neglect because of health care services provided or not provided by licensed health care professionals.
- (h) **“Provider agency”** means any public or nonprofit agency in a planning and service area that is selected by the Department appointed by the regional administrative agency with prior approval by the Department on Aging to receive and assess reports of alleged or suspected abuse, neglect, or financial exploitation. A provider agency is also referenced as a “designated agency” in this Act.
- (i) **“Regional administrative agency”** means any public or nonprofit agency in a planning and service area that provides regional oversight and performs functions as set forth in subsection (b) of Section 3 of this Act. The Department shall designate an Area Agency on Aging as the regional administrative agency or, in the event the Area Agency on Aging in that planning and service area is deemed by the Department to be unwilling or unable to

provide those functions, the Department may serve as the regional administrative agency or designate another qualified entity to serve as the regional administrative agency; any such designation shall be submit to terms set forth by the Department (i-5).

- (j) **“Self-neglect”** means a condition that is the result of an eligible adult’s inability, due to physical or mental impairments, or both, or a diminished capacity, to perform essential self-care tasks that substantially threaten his or her own health, including: providing essential food, clothing, shelter, and health care; and obtaining goods and services necessary to maintain physical health, mental health, emotional well-being, and general safety. The term includes compulsive hoarding, which is characterized by the acquisition and retention of large quantities of items and materials that produce an extensively cluttered living space, which significantly impairs the performance of essential self-care tasks or otherwise substantially threatens life or safety.
- (k) **“Substantiated case”** means a reported case of alleged or suspected abuse, neglect, financial exploitation, or self-neglect in which a provider agency, after assessment, determines that there is reason to believe abuse, neglect, or financial exploitation has occurred.
- (l) **“Verified”** means a determination that there is “clear and convincing evidence” that the specific injury or harm alleged was the result of abuse, neglect or financial exploitation.

Sec. 3. Responsibilities.

- (a) The Department shall establish, design, and manage a protective services program for eligible adults who have been, or are alleged to be, victims of abuse, neglect, financial exploitation, or self-neglect. The Department shall contract with or fund or, contract with and fund, regional administrative agencies, provider agencies, or both, for the provision of those functions, and, contingent on adequate funding, with attorneys or legal services provider agencies for the provision of legal assistance pursuant to this Act. For self-neglect, the program shall include the following services for eligible adults who have been removed from their residences for the purpose of cleanup or repairs: temporary housing; counseling; and caseworker services to try to ensure that the conditions necessitating the removal do not reoccur.
- (a-1) The Department shall by rule develop standards for minimum staffing levels and staff qualifications. The Department shall by rule establish mandatory standards for the investigation of abuse, neglect, financial exploitation, or self-neglect of eligible adults and mandatory procedures for linking eligible adults to appropriate services and supports.
- (a-5) A provider agency shall, in accordance with rules promulgated by the Department, establish a multi-disciplinary team to act in an advisory role for the purpose of providing professional knowledge and expertise in the handling of complex cases involving eligible adults. Each multi-disciplinary team shall consist of one volunteer representative from the following professions: banking or finance; disability care; health care; law; law enforcement; mental health care; and clergy. A provider agency may also choose to add representatives from the fields of substance abuse, domestic violence, sexual assault, or

other related fields. To support multi-disciplinary teams in this role, law enforcement agencies and coroners or medical examiners shall supply records as may be requested in particular cases.

- (b) Each regional administrative agency shall designate provider agencies within its planning and service area with prior approval by the Department on Aging, monitor the use of services, provide technical assistance to the provider agencies and be involved in program development activities.
- (c) Provider agencies shall assist, to the extent possible, eligible adults who need agency services to allow them to continue to function independently. Such assistance shall include but not be limited to, receiving reports of alleged or suspected abuse, neglect, financial exploitation, or self-neglect, conducting face-to-face assessments of such reported cases, determination of substantiated cases, referral of substantiated cases for necessary support services, referral of criminal conduct to law enforcement in accordance with Department guidelines, and provision of case work and follow-up services on substantiated cases. In the case of a report of alleged or suspected abuse or neglect that places an eligible adult at risk of injury or death, a provider agency shall respond to the report on an emergency basis in accordance with guidelines established by the Department by administrative rule and shall ensure that it is capable of responding to such a report 24 hours per day, 7 days per week. A provider agency may use an on-call system to respond to reports of alleged or suspected abuse or neglect after hours and on weekends.
- (c-5) Where a provider agency has reason to believe that the death of an eligible adult may be the result of abuse or neglect, including any reports made after death, the agency shall immediately report the matter to both the appropriate law enforcement agency and the coroner or medical examiner. Between 30 and 45 days after making such a report, the provider agency again shall contact the law enforcement agency and coroner or medical examiner to determine whether any further action was taken. Upon request by a provider agency, a law enforcement agency and coroner or medical examiner shall supply a summary of its action in response to a reported death of an eligible adult. A copy of the report shall be maintained and all subsequent follow-up with the law enforcement agency and coroner or medical examiner shall be documented in the case record of the eligible adult. If the law enforcement agency, coroner, or medical examiner determines the reported death was caused by abuse or neglect by a caregiver, the law enforcement agency, coroner, or medical examiner shall inform the Department, and the Department shall report the caregiver's identity on the Registry as described in Section 7.5 of this Act.
- (d) Upon sufficient appropriations to implement a statewide program, the Department shall implement a program based on the recommendations of the Self-Neglect Steering Committee, for (i) responding to reports of possible self-neglect, (ii) protecting the autonomy, rights, privacy, and privileges of adults during investigations of possible self-neglect and consequential judicial proceedings regarding competency, (iii) collecting and sharing relevant information and data among the Department, provider agencies, regional administrative agencies, and relevant seniors, (iv) developing working agreements between provider agencies and law enforcement, where practicable, and (v) developing procedures for collecting data regarding incidents of self-neglect.

Sec. 3.5. Other Responsibilities.

The Department shall also be responsible for the following activities, contingent upon adequate funding; implementation shall be expanded to adults with disabilities upon the effective date of this amendatory Act of the 98th General Assembly, except those responsibilities under subsection (a), which shall be undertaken as soon as practicable:

- (a) promotion of a wide range of endeavors for the purpose of preventing abuse, neglect, financial exploitation, and self-neglect, including, but not limited to, promotion of public and professional education to increase awareness of abuse, neglect, financial exploitation, and self-neglect; to increase reports; to establish access to and use of the Registry and to improve response by various legal, financial, social, and health systems;
- (b) coordination of efforts with other agencies, councils, and like entities, to include but not be limited to, the Administrative Office of the Illinois Courts, the Office of the Attorney General, the Illinois State Police, the Illinois Law Enforcement Training Standards Board, the Illinois State TRIAD, the Illinois Criminal Justice Information Authority, the Departments of Public Health, Healthcare and Family Services, and Human Services, the Illinois Guardianship and Advocacy Commission, the Illinois Family Violence Coordinating Council, the Illinois Violence Prevention Authority, and other entities which may impact awareness of, and response to abuse, neglect, financial exploitation, and self-neglect;
- (c) collection and analysis of data;
- (d) monitoring of the performance of regional administrative agencies and adult protective services agencies;
- (e) promotion of prevention activities;
- (f) establishing and coordinating an aggressive training program on the unique nature of adult abuse cases with other agencies, councils, and like entities, to include but not be limited to the Office of the Attorney General, the State Police, the Illinois Law Enforcement Training Standards Board, the State Triad, the Illinois Criminal Justice Information Authority, the State Departments of Public Health, Healthcare and Family Services, and Human Services, the Family Violence Coordinating Council, the Illinois Violence Prevention Authority, the agency designated by the Governor under Section 1 of the Protections and Advocacy for Developmentally Disabled Persons Act, and other entities that may impact awareness of and response to abuse, neglect, financial exploitation, and self-neglect;
- (g) solicitation of financial institutions for the purpose of making information available to the general public warning of financial exploitation of adults and related financial fraud or abuse, including such information and warnings available through signage or other written materials provided by the Department on the premises of such financial institutions, provided that the manner of displaying or distributing such information is subject to the sole discretion of each financial institution;
- (g-1) developing by joint rulemaking with the Department of Financial and Professional Regulation minimum training standards which shall be used by financial institutions for their current and new employees with direct customer contact; the Department of

Financial and Professional Regulation shall retain sole visitation and enforcement authority under this subsection (g-1); the Department of Financial and Professional Regulation shall provide bi-annual reports to the Department setting forth aggregate statistics on the training programs required under this subsection (g-1); and

- (h) coordinating efforts with utility and electric companies to send notices in utility bills to explain to persons 60 years of age or older their rights regarding telemarketing and home repair fraud.

Sec. 4. Reports of abuse or neglect.

- (a) Any person who suspects the abuse, neglect, financial exploitation, or self-neglect of an eligible adult may report this suspicion to an agency designated to receive such reports under this Act or to the Department.
- (a-5) If any mandated reporter has reason to believe that an eligible adult, who because of disability or other condition or impairment is unable to seek assistance for himself or herself, has, within the previous 12 months, been subjected to abuse, neglect, or financial exploitation, the mandated reporter shall, within 24 hours after developing such belief, report this suspicion to an agency designated to receive such reports under this Act or to the Department. The agency designated to receive such reports under this Act or the Department may establish a manner in which a mandated reporter can make the required report through an Internet reporting tool. Information sent and received through the internet reporting tool is subject to the same rules in this Act as other types of confidential reporting established by the designated agency or the Department.

Whenever a mandated reporter is required to report under this Act in his or her capacity as a member of the staff of a medical or other public or private institution, facility, or agency, he or she shall make a report to an agency designated to receive such reports under this Act or to the Department in accordance with the provisions of this Act and may also notify the person in charge of the institution, facility, or agency or his or her designated agent that the report has been made. Under no circumstances shall any person in charge of such institution, facility, board and care home, or agency, or his or her designated agent to whom the notification has been made, exercise any control, restraint, modification, or other change in the report or the forwarding of the report to an agency designated to receive such reports under this Act or to the Department. The privileged quality of communication between any professional person required to report and his or her patient or client shall not apply to situations involving abused, neglected, or financially exploited eligible adults and shall not constitute grounds for failure to report as required by this Act.

- (a-7) A person making a report under this Act in the belief that it is in the alleged victim's best interest shall be immune from criminal or civil liability or professional disciplinary action on account of making the report, notwithstanding any requirements concerning the confidentiality of information with respect to such eligible adult which might otherwise be applicable.

- (a-9) Law enforcement officers shall continue to report incidents of alleged abuse pursuant to the Illinois Domestic Violence Act of 1986, notwithstanding any requirements under this Act.
- (b) Any person, institution or agency participating in the making of a report, providing information or records related to a report, assessment, or services, or participating in the investigation of a report under this Act in good faith, or taking photographs or x-rays as a result of an authorized assessment, shall have immunity from any civil, criminal or other liability in any civil, criminal or other proceeding brought in consequence of making such report or assessment or on account of submitting or otherwise disclosing such photographs or x-rays to any agency designated to receive reports of alleged or suspected abuse or neglect. Any person, institution or agency authorized by the Department to provide assessment, intervention, or administrative services under this Act shall, in the good faith performance of those services, have immunity from any civil, criminal or other liability in any civil, criminal, or other proceeding brought as a consequence of the performance of those services. For the purposes of any civil, criminal, or other proceeding, the good faith of any person required to report, permitted to report, or participating in an investigation of a report of alleged or suspected abuse, neglect, or financial exploitation shall be presumed.
- (c) The identity of a person making a report of alleged or suspected abuse, neglect, financial exploitation, or self-neglect under this Act may be disclosed by the Department or other agency provided for in this Act only with such person's written consent or by court order, but is otherwise confidential.
- (d) The Department shall by rule establish a system for filing and compiling reports made under this Act.
- (e) Any physician who willfully fails to report as required by this Act shall be referred to the Illinois State Medical Disciplinary Board for action in accordance with subdivision (A)(22) of Section 22 of the Medical Practice Act of 1987. Any dentist or dental hygienist who willfully fails to report as required by this Act shall be referred to the Department of Professional Regulation for action in accordance with paragraph 19 of Section 23 of the Illinois Dental Practice Act. Any optometrist who willfully fails to report as required by this Act shall be referred to the Department of Financial and Professional Regulation for action in accordance with paragraph (15) of subsection (a) of Section 24 of the Illinois Optometric Practice Act of 1987. Any other mandated reporter required by this Act to report suspected abuse, neglect, or financial exploitation who willfully fails to report the same is guilty of Class A misdemeanor.

Sec. 4.1. Employer discrimination.

No employer shall discharge, demote or suspend, or threaten to discharge, demote or suspend, or in any manner discriminate against any employee who makes any good faith oral or written report of suspected abuse, neglect, or financial exploitation or who is or will be a witness or testify in any investigation or proceeding concerning a report of suspected abuse, neglect, or financial exploitation.

Sec. 4.2. Testimony by mandated reporter and investigator.

Any mandated reporter who makes a report or any person who investigates a report under this Act shall testify fully in any judicial proceeding resulting from such report, as to any evidence of abuse, neglect, or financial exploitation or the cause thereof. Any mandated reporter who is required to report a suspected case of abuse, neglect, or financial exploitation under Section 4 of this Act shall testify fully in any administrative hearing resulting from such report, as to any evidence of abuse, neglect, or financial exploitation or the cause thereof. No evidence shall be excluded by reason of any common law or statutory privilege relating to communications between the alleged abuser or the eligible adult subject of the report under this Act and the person making or investigating the report.

Sec. 5. Procedure.

- (a) A provider agency designated to receive reports of alleged or suspected abuse, neglect, financial exploitation, or self-neglect under this Act shall, upon receiving such a report, conduct a face-to-face assessment with respect to such report, in accord with established law and Department protocols, procedures, and policies. Face-to-face assessments, casework, and follow-up of reports of self-neglect by the provider agencies designated to receive reports of self-neglect shall be subject to sufficient appropriation for statewide implementation of assessments, casework, and follow-up of reports of self-neglect. In the absence of sufficient appropriation for statewide implementation of assessments, casework, and follow-up of reports of self-neglect, the designated adult protective services provider agency shall refer all reports of self-neglect to the appropriate agency or agencies as designated by the Department for any follow-up. The assessment shall include, but not be limited to, a visit to the residence of the eligible adult who is the subject of the report and may include interviews or consultations with service agencies or individuals who may have knowledge of the eligible adult's circumstances. If, after the assessment, the provider agency determines that the case is substantiated it shall develop a service care plan for the eligible adult and may report its findings at any time during the case to the appropriate law enforcement agency in accord with established law and Department protocols, procedures, and policies. In developing a case plan, the provider agency may consult with any other appropriate provider of services, and such providers shall be immune from civil or criminal liability on account of such acts. The plan shall include alternative suggested or recommended services which are appropriate to the needs of the eligible adult and which involve the least restriction of the eligible adult's activities commensurate with his or her needs. Only those services to which consent is provided in accordance with Section 9 of this Act shall be provided, contingent upon the availability of such services.
- (b) A provider agency shall refer evidence of crimes against an eligible adult to the appropriate law enforcement agency according to Department policies. A referral to law enforcement may be made at intake or any time during the case. Where a provider agency has reason to believe the death of an eligible adult may be the result of abuse or neglect, the agency shall immediately report the matter to the coroner or medical examiner and shall cooperate fully with any subsequent investigation.

- (c) If any person other than the alleged victim refuses to allow the provider agency to begin an investigation, interferes with the provider agency's ability to conduct an investigation, or refuses to give access to an eligible adult, the appropriate law enforcement agency must be consulted regarding the investigation.

Sec. 6. Time.

The Department shall by rule establish the period of time within which an assessment shall begin and within which a service care plan shall be implemented. Such rules shall provide for an expedited response to emergency situations.

Sec. 7. Review.

All services provided to an eligible adult shall be reviewed by the provider agency on at least a quarterly basis for up to one year to determine whether the service care plan should be continued or modified, except that, upon review, the Department on Aging may grant a waiver to extend the service care plan for up to one additional year.

Sec. 7.1 Financial investigate report.

A provider agency shall prepare a final investigative report, upon the completion or closure of an investigation, in all cases of reported abuse, neglect, financial exploitation, or self-neglect of an eligible adult, whether or not there is a substantiated finding.

Sec. 7.5 Registry.

- (a) To protect individuals receiving in-home and community-based services, the Department on Aging shall establish an Adult Protective Service Registry that will be hosted by the Department of Public Health on its website effective January 1, 2015, and, if practicable, shall propose rules for the Registry by January 1, 2015.
- (a-5) The Registry shall identify caregivers against whom a verified and substantiated finding was made under this Act of abuse, neglect, or financial exploitation. The information in the Registry shall be confidential except as specifically authorized in this Act and shall not be deemed a public record.
- (a-10) Reporting to the Registry. The Department on Aging shall report to the Registry the identity of a caregiver when a verified and substantiated finding of abuse, neglect, or financial exploitation of an eligible adult under this Act is made against a caregiver, and all appeals, challenges, and reviews, if any, have been completed and a finding for placement on the Registry has been sustained or upheld, finding against a caregiver that is placed in the Registry shall preclude that caregiver from providing direct care, as defined in this Section, in a position with or that is regulated by or paid with public funds from the Department on Aging, the Department of Healthcare and Family Services, the Department of Human Services, or the Department of Public Health or with an entity or provider licensed, certified, or regulated by or paid with public funds from any of these State agencies.

(b) Definitions. As used in this Section:

“Direct care” includes, but is not limited to, direct access to a person age 60 or older or an adult with disabilities aged 18 through 59, his or her living quarters, or his or her personal, financial, or medical records for the purpose of providing nursing care or assistance with feeding, dressing, movement, bathing, toileting, other personal needs and activities of daily living or instrumental activities of daily living, or assistance with financial transactions.

“Participant” means an individual who uses the services of an in-home care program funded through the Department on Aging, the Department of Healthcare and Family Services, the Department of Human Services, or the Department of Public Health.

(c) Access to and use of the Registry. Access to the Registry shall be limited to the Department on Aging, the Department of Healthcare and Family Services, the Department of Human Services, and the Department of Public Health and providers of direct care as described in subsection (a-10) of this Section. These State agencies and providers shall not hire, compensate either directly or on behalf of a participant, or utilize the services of any person seeking to provide direct care without first conducting an online check of whether the person has been placed on the Registry. These State agencies and providers shall maintain a copy of the results of the online check to demonstrate compliance with this requirement. These State agencies and providers are prohibited from retaining, hiring, compensating either directly or on behalf of a participant, or utilizing the services of a person, to provide direct care if the online check of the person reveals a verified and substantiated finding of abuse, neglect, or exploitation that has been placed on the Registry or when the State agencies or providers otherwise gain knowledge of such placement on the Registry. Failure to comply with this requirement may subject such a provider to corrective action by the appropriate regulatory agency or other lawful remedies provided under the applicable licensure, certification, or regulatory laws or rules.

(d) Notice to caregiver. The Department on Aging shall establish rules concerning notice to the caregiver in cases of a verified and substantiated finding of abuse, neglect, or financial exploitation against him or her that may make him or her eligible for placement on the Registry.

(e) Notification to eligible adults, guardians, or agents. As part of its investigation, the Department on Aging shall notify an eligible adult, or an eligible adult’s guardian or agent, that his or her caregiver’s name may be placed on the Registry based on a finding as described in subsection (a-10) of this Section.

(f) Notification to employer. The Department shall notify the appropriate State agency or provider of direct care, as described in subsection (a-10), when there is a verified and substantiated finding of abuse, neglect, or financial exploitation in a case under this Act that is reported on the Registry and that involves one of its caregivers. That State agency or provider is prohibited from retaining or compensating that individual in a position that involves direct care, and if there is an imminent risk of danger to the victim or an imminent risk of misuse of personal, medical, or financial information, that caregiver shall immediately be barred from providing direct care to the victim, pending the outcome of any challenge, appeal, criminal prosecution, or other type of collateral action.

- (g) Challenges and appeals. The Department on Aging shall establish, by rule, procedures concerning challenges and appeals to placement on the Registry pursuant to legislative intent. The Department shall not make any report to the Registry pending challenges or appeals.
- (h) Caregiver's rights to collateral action. The Department on Aging shall not make any report to the Registry if a caregiver notifies the Department in writing, that he or she is formally challenging an adverse employment action resulting from a verified and substantiated finding of abuse, neglect, or financial exploitation by complaint filed with the Illinois Civil Service Commission, or by another means which seeks to enforce the caregiver's rights pursuant to any applicable collective bargaining agreement. If an action taken by an employer against a caregiver as a result of such a finding is overturned through an action filed with the Illinois Civil Service Commission or under any applicable collective bargaining agreement after that caregiver's name has already been sent to the Registry, the caregiver's name shall be removed from the Registry.
- (i) Removal from the Registry. At any time after a report to the Registry, but no more than once in each successive 3-year period thereafter, for a maximum of 3 such requests, a caregiver may request removal of his or her name from the Registry in relationship to a single incident. The caregiver shall bear the burden of establishing cause, by a preponderance of the evidence, that removal of his or her name from the Registry is in the public interest. Upon receiving such a request, the Department on Aging shall conduct an investigation and consider any evidentiary material provided. The Department shall issue a decision either granting or denying removal to the caregiver and report it to the Registry. The Department shall, by rule, establish standards and a process for requesting the removal of a name from the Registry.
- (j) Referral of Registry reports to health care facilities. In the event an eligible adult receiving services from a provider agency changes his or her residence from a domestic living situation to that of a health care or long-term care facility, the provider agency shall use reasonable efforts to promptly inform the facility and the appropriate Regional Long-Term Care Ombudsman about any Registry reports relating to the eligible adult. For purposes of this Section, a health care or long-term care facility includes, but is not limited to, any residential facility licensed, certified, or regulated by the Department of Public Health, Healthcare and Family Services, or Human Services.
- (k) The Department on Aging and its employees and agents shall have immunity, except for intentional willful and wanton misconduct, for any liability, civil, criminal, or otherwise, for reporting information to and maintaining the Registry.

Sec. 8. Access to records.

- (a) All records concerning reports of abuse, neglect, financial exploitation, or self-neglect and all records generated as a result of such reports shall be confidential and shall not be disclosed except as specifically authorized by this Act or other applicable law. In accord with established law and Department protocols, procedures, and policies, access to such records, but not access to the identity of the person or persons making a report of alleged abuse, neglect, financial exploitation, or self-neglect as contained in such records, shall be provided, upon request, to the following persons and for the following persons:

- (1) Department staff, provider agency staff, other aging network staff, and regional administrative agency staff, including staff of the Chicago Department on Aging while that agency is designated as a regional administrative agency, in the furtherance of their responsibilities under this Act;
- (2) A law enforcement agency investigating known or suspected abuse, neglect, financial exploitation, or self-neglect. Where a provider agency has reason to believe that the death of an eligible adult may be the result of abuse or neglect, including any reports made after death, the agency shall immediately provide the appropriate law enforcement agency with all records pertaining to the eligible adult;
- (2.5) A law enforcement agency, fire department agency, or fire protection district having proper jurisdiction pursuant to a written agreement between a provider agency and the law enforcement agency, fire department agency, or fire protection district under which the provider agency may furnish to the law enforcement agency, fire department, or fire protection district a list of all eligible adults who may be at imminent risk of abuse, neglect, financial exploitation, or self-neglect.
- (3) A physician who has before him or her or who is involved in the treatment of an eligible adult whom he or she reasonably suspects may be abused, neglected, financially exploited, or self-neglected, or who has been referred to the Adult Protective Services Program;
- (4) An eligible adult reported to be abused, neglected, financially exploited, or self-neglected, or such adult's authorized guardian or agent, unless such guardian or agent is the abuser or the alleged abuser;
- (4.5) An executor or administrator of the estate of an eligible adult who is deceased;
- (5) In cases regarding abuse, neglect, or financial exploitation, a court or a guardian ad litem, upon its or his or her finding that access to such records may be necessary for the determination of an issue before the court. However, such access shall be limited to an in camera inspection of the records, unless the court determines that disclosure of the information contained therein is necessary for the resolution of an issue then pending before it;
- (5.5) In cases regarding self-neglect, a guardian ad litem;
- (6) A grand jury, upon its determination that access to such records is necessary in the conduct of its official business;
- (7) Any person authorized by the Director, in writing, for audit or bona fide research purposes;
- (8) A coroner or medical examiner who has reason to believe that an eligible adult has died as the result of abuse, neglect, financial exploitation, or self-neglect. The provider agency shall immediately provide the coroner or medical examiner with all records pertaining to the eligible adult;

- (8.5) A coroner or medical examiner having proper jurisdiction, pursuant to a written agreement between a provider agency and the coroner or medical examiner, under which the provider agency may furnish to the office of the coroner or medical examiner a list of all eligible adults who may be at imminent risk of death as a result of abuse, neglect, financial exploitation, or self-neglect;
- (9) Department of Financial and Professional Regulation staff and members of the Illinois Medical Disciplinary Board or Social Work Examining and Disciplinary Board in the course of investigating alleged violations of the Clinical Social Work and Social Work Practice Act by provider agency staff or other licensing bodies at the discretion of the Director of the Department on Aging;
- (9-a) Department of Healthcare and Family Services staff when that Department is funding services to the eligible adult, including access to the identity of the eligible adult;
- (9-b) Department of Human Services staff when that Department is funding services to the eligible adult or is providing reimbursement for services provided by the abuse or alleged abuser, including access to the identity of the eligible adult;
- (10) Hearing officers in the course of conducting an administrative hearing under this Act; parties to such hearing shall be entitled to discovery as established by rule;
- (11) A caregiver who challenges placement on the Registry shall be given the statement of allegations in the abuse report and the substantiation decision in the final investigative report; and
- (12) The Illinois Guardianship and Advocacy Commission and the agency designated by the Governor under Section 1 of the Protection and Advocacy for Developmentally Disabled Persons Act shall have access, through the Department, to records, including the findings, pertaining to a completed or closed investigation of a report of suspected abuse, neglect, financial exploitation, or self-neglect of an eligible adult.

Sec. 9. Authority to consent to services.

- (a) If an eligible adult consents to an assessment of a reported incident of suspected abuse, neglect, financial exploitation, or self-neglect, and following the assessment of such report, consents to services being provided according to the case plan, such services shall be arranged to meet the adult's needs, based upon the availability of resources to provide such services. If an adult withdraws his or her consent for an assessment of the reported incident or withdraws his or her consent for services and refuses to accept such services, the services shall not be provided.
- (b) If it reasonably appears to the Department or other agency designated under this Act that a person is an eligible adult and lacks the capacity to consent to an assessment of a reported incident of suspected abuse, neglect, financial exploitation, or self-neglect or to necessary services, the Department or other agency shall take appropriate action necessary to ameliorate risk to the eligible adult if there is a threat of ongoing harm or

another emergency exists. The Department or other agency shall be authorized to seek the appointment of a temporary guardian as provided in Article XIa of the Probate Act of 1975 for the purpose of consenting to an assessment of the reported incident and such services, together with an order for an evaluation of the eligible adult's physical, psychological, and medical condition and decisional capacity.

- (c) A guardian of the person of an eligible adult may consent to an assessment of the reported incident and to services being provided according to the case plan. If an eligible adult lacks capacity to consent, an agent having authority under a power of attorney may consent to an assessment of the reported incident and to services. If a guardian or agent is the suspected abuser and he or she withdraws consent for an assessment of the reported incident, or refuses to allow services to be provided to the eligible adult, the Department, an agency designated under this Act, or the office of the Attorney General may request a court order seeking appropriate remedies, and may in addition request removal of the guardian and appointment of a successor guardian or request removal of the agent and appointment of a guardian.
- (d) If an emergency exists and the Department or other agency designated under this Act reasonably believes that a person is an eligible adult and lacks the capacity to consent to necessary services, the Department or other agency may request an ex parte order from the circuit court of the county in which the petitioner or respondent resides or in which the alleged abuse, neglect, financial exploitation, or self-neglect occurred, authorizing an assessment of a report of alleged or suspected abuse, neglect, financial exploitation, or self-neglect or the provision of necessary services, or both, including relief available under the Illinois Domestic Violence Act of 1986 in accord with established law and Department protocols, procedures, and policies. Petitions filed under this subsection shall be treated as expedited proceedings. When an eligible adult is at risk of serious injury or death and it reasonably appears that the eligible adult lacks capacity to consent to necessary services, the Department or other agency designated under this Act may take action necessary to ameliorate the risk in accordance with administrative rules promulgated by the Department.
- (d-5) For purposes of this Section, an eligible adult "lacks the capacity to consent" if qualified staff of an agency designated under this Act reasonably determine, in accordance with administrative rules promulgated by the Department, that he or she appears either (i) unable to receive and evaluate information related to the assessment or services or (ii) unable to communicate in any manner related to the assessment of the reported incident or services.
- (e) Within 15 days after the entry of the ex parte emergency order, the order shall expire, or, if the need for assessment of the reported incident or services continues, the provider agency shall petition for the appointment of a guardian as provided in Article XIa of the Probate Act of 1975 for the purpose of consenting to such assessment or services or to protect the eligible adult from further harm.

- (f) If the court enters an ex parte order under subsection (d) for an assessment of a reported incident of alleged or suspected abuse, neglect, financial exploitation, or self-neglect, or for the provision of necessary services in connection with alleged or suspected self-neglect, or for both, the court, as soon as is practicable thereafter, shall appoint a guardian ad litem for the eligible adult who is the subject of the order, for the purpose of reviewing the reasonableness of the order. The guardian ad litem shall review the order and, if the guardian ad litem reasonably believes that the order is unreasonable, the guardian ad litem shall file a petition with the court stating the guardian ad litem's belief and requesting that the order be vacated.
- (g) In all cases in which there is a substantiated finding of abuse, neglect, or financial exploitation by a guardian, the Department shall, within 30 days after the finding, notify the Probate Court with jurisdiction over the guardianship.

Sec. 9.5. Commencement of action for ex parte authorization orders; filing fees; process.

- (a) Actions for ex parte authorization orders are commenced:
 - (1) independently, by filing a petition for an ex parte authorization order in the circuit court;
 - (2) in conjunction with other civil proceedings, by filing a petition for an ex parte authorization order under the same case number as a guardianship proceeding under the Probate Act of 1975 where the eligible adult is the alleged disabled adult.
- (b) No fee shall be charged by the clerk for filing petitions or certifying orders. No fee shall be charged by a sheriff for service by the sheriff of a petition, rule, motion, or order in an action commenced under this Section.
- (c) Any action for an ex parte authorization order commenced independently is a distinct cause of action and requires that a separate summons be issued and served. Service of summons is not required prior to entry of emergency ex parte authorization orders.
- (d) Summons may be served by a private person over 18 years of age and not a party to the action. The return by that private person shall be by affidavit. The summons may be served by a sheriff or other law enforcement officer, and if summons is placed for service by the sheriff, it shall be made at the earliest time practicable and shall take precedence over other summonses except those of a similar emergency nature.

Sec. 10. Rules.

The Department shall adopt such rules and regulations as it deems necessary to implement this Act.

Sec. 11. Annual Reports.

The Department shall file with the Governor and the General Assembly, within 270 days after the end of each fiscal year, a report concerning its implementation of this Act during such fiscal year, together with any recommendations for future implementation.

Sec. 12. (Repealed).

Sec. 13. Access.

- (a) In accord with established law and Department protocols, procedures, and policies, the designated provider agencies shall have access to eligible adults who have been reported or found to be victims of abuse, neglect, financial exploitation, or self-neglect in order to assess the validity of the report, assess other needs of the eligible adult, and provide services in accordance with this Act.
- (a-5) A representative of the Department of a designated provider agency that is actively involved in an abuse, neglect, financial exploitation, or self-neglect investigation under this Act shall be allowed access to the financial records, mental and physical health records, and other relevant evaluative records of the eligible adult which are in the possession of any individual, financial institution, health care provider, mental health provider, educational facility, or other facility if necessary to complete the investigation mandated by this Act. The provider or facility shall provide such records to the representative upon receipt of a written request and certification from the Department or designated provider agency that an investigation is being conducted under this Act and the records are pertinent to the investigation.

Any records received by such representative, the confidentiality of which is protected by another law or rule, shall be maintained as confidential, except for such use as may be necessary for any administrative or other legal processing.

- (b) Where access to an eligible adult is denied, including the refusal to provide requested records, the Office of the Attorney General, the Department, or the provider agency may petition the court for an order to require appropriate access where:
 - (1) a caregiver or third party has interfered with the assessment or service plan, or
 - (2) the agency has reason to believe that the eligible adult is denying access because of coercion, extortion, or justifiable fear of future abuse, neglect, or financial exploitation.
- (c) The petition for an order requiring appropriate access shall be afforded an expedited hearing in the circuit court.
- (d) If the provider agency has substantiated financial exploitation against an eligible adult, and has documented a reasonable belief that the eligible adult will be irreparably harmed as a result of the financial exploitation, the Office of the Attorney General, the Department, or the provider agency may petition for an order freezing the assets of the eligible adult. The petition shall be filed in the county or counties in which the assets are located. The court's order shall prohibit the sale, gifting, transfer, or wasting of the assets of the eligible adult, both real and personal, owned by, or vested in, the eligible adult, without the expressed permission of the court. The petition to freeze the assets of the eligible adult shall be afforded an expedited hearing in the circuit court.

Sec. 13.5. Commencement of action for access; filing fees; process; notice; duration of orders.

- (a) Actions for orders seeking access to an eligible adult or freezing assets of an eligible adult are commenced:
 - (1) independently, by filing a petition for access to an eligible adult or freezing the assets of an eligible adult in circuit court;
 - (2) in conjunction with other civil proceedings, by filing a petition for access to an eligible adult or freezing the assets of an eligible adult under the same case number as another civil proceeding involving the parties, including, but not limited to:
 - (i) a guardianship proceeding under the Probate Act of 1975;
 - (ii) a proceeding for involuntary commitment under the Mental Health and Developmental Disabilities Code;
 - (iii) any other proceeding, provided that the eligible adult or the respondent is a party to or the subject of that proceeding.
- (b) No fee shall be charged by the clerk for filing petitions or certifying orders. No fee shall be charged by a sheriff for service by the sheriff of such a petition, rule, motion, or order in an action commenced under this Section.
- (c) Any action for an order for access to an eligible adult or freezing assets of an eligible adult, whether commenced independently or in conjunction with another proceeding, is a distinct cause of action and requires that a separate summons be issued and served, except that in pending cases the following methods may be used:
 - (1) Delivery of the summons to respondent personally in open court in pending civil or criminal cases.
 - (2) Mailing to the defendant, or, if represented, to the defendant's attorney of record in the civil cases in which the defendant has filed a general appearance. The summons shall be in the form prescribed by subsection (d) of Supreme Court Rule 101, except that it shall require the respondent to answer or appear within 7 days. Attachments to the summons or notice shall include the petition for access to an eligible adult or freezing assets of an eligible adult and supporting affidavits, if any, and any emergency order for access to an eligible adult or freezing assets of an eligible adult that has been issued.
- (d) Summons may be served by a private person over 18 years of age and not a party to the action. The return by that private person shall be by affidavit. The summons may be served by a sheriff or other law enforcement officer, and if summons is placed for service by the sheriff, it shall be made at the earliest time practicable and shall take precedence over other summonses except those of a similar emergency nature.
- (e) Except as otherwise provided in this Section, notice of hearings on petitions or motions shall be served in accordance with Supreme Court Rules 11 and 12 unless notice is excused by the Code of Civil Procedure, Supreme Court Rules, or local rules, as now or hereafter amended.

- (f) Original notice of a hearing on a petition for access to an eligible adult or freezing assets of an eligible adult may be given, and the documents served, in accordance with Supreme Court Rules 11 and 12. When, however, an emergency order is sought in such a case on an ex parte application, the notice rules set forth in Section 11-101 of the Code of Civil Procedure shall apply.
- (g) An order entered in accordance with Sections 13 and 13.5 shall be valid for a fixed period of time, not to exceed 2 years.

Sec. 14. Volunteer Corps.

Qualified volunteers may be used for the purpose of increasing public awareness and providing companion-type services, as prescribed by rule, to eligible adults. A qualified volunteer must undergo training as prescribed by the Department by rule and must adhere to all confidentiality requirements as required by law.

Sec. 15. Fatality Review Teams.

- (a) State policy.
 - (1) Both the State and the community maintain a commitment to preventing the abuse, neglect, and financial exploitation of at-risk adults. This includes a charge to bring perpetrators of crimes against at-risk adults to justice and prevent untimely deaths in the community.
 - (2) When an at-risk adult dies, the response to the death by the community, law enforcement, and the State must include an accurate and complete determination of the cause of death, and the development and implementation of measures to prevent future deaths from similar causes.
 - (3) Multidisciplinary and multi-agency reviews of deaths can assist the State and counties in developing a greater understanding of the incidence and causes of premature deaths and the methods for preventing those deaths, improving methods for investigating deaths, and identifying gaps in services to at-risk adults.
 - (4) Access to information regarding the deceased person and his or her family by multidisciplinary and multi-agency fatality review teams is necessary in order to fulfill their purposes and duties.
- (a-5) Definitions. As used in this Section:
 - “Advisory Council” means the Illinois Fatality Review Team Advisory Council.
 - “Review Team” means a regional interagency fatality review team.
- (b) The Director, in consultation with the Advisory Council, law enforcement, and other professionals who work in the fields of investigating, treating, or preventing abuse or neglect of at-risk adults, shall appoint members to a minimum of one review team in each of the Department’s planning and service areas. Each member of a review team shall be appointed for a 2-year term and shall be eligible for reappointment upon the expiration of the term. A review team’s purpose in conducting review of at-risk adult deaths is:

- (i) to assist local agencies in identifying and reviewing suspicious deaths of adult victims of alleged, suspected, or substantiated abuse or neglect in domestic living situations;
 - (ii) to facilitate communications between officials responsible for autopsies and inquests and persons involved in reporting or investigating alleged or suspected cases of abuse, neglect, or financial exploitation of at-risk adults and persons involved in providing services to at-risk adults;
 - (iii) to evaluate means by which the death might have been prevented; and
 - (iv) to report its findings to the appropriate agencies and the Advisory Council and make recommendations that may help to reduce the number of at-risk adult deaths caused by abuse and neglect and that may help to improve the investigations of deaths of at-risk adults and increase prosecutions, if appropriate.
- (b-5) Each such team shall be composed of representatives of entities and individuals including, but not limited to: (1) the Department on Aging; (2) coroners or medical examiners (or both); (3) State's Attorneys; (4) local police departments; (5) forensic units; (6) local health departments; (7) a social service or health care agency that provides services to persons with mental illness, in a program whose accreditation to provide such services is recognized by the Division of Mental Health within the Department of Human Services; (8) a social service or health care agency that provides services to persons with developmental disabilities, in a program whose accreditation to provide such services is recognized by the Division of Developmental Disabilities within the Department of Human Services; (9) a local hospital, trauma center, or provider of emergency medicine; (10) providers of services for eligible adults in domestic living situations; and (11) a physician, psychiatrist, or other health care provider knowledgeable about abuse and neglect of at-risk adults.
- (c) A review team shall review cases of deaths of at-risk adults occurring in its planning and service area: (i) involving blunt force trauma or an undetermined manner or suspicious cause of death, (ii) if requested by the deceased's attending physician or an emergency room physician, (iii) upon referral by a health care provider, (iv) upon referral by a coroner or medical examiner, (v) constituting an open or closed case from an adult protective services agency, law enforcement agency, State's Attorney's office, or the Department of Human Services' Office of the Inspector General that involves alleged or suspected abuse, neglect, or financial exploitation; or (vi) upon referral by a law enforcement agency or State's Attorney's office. If such a death occurs in a planning and service area where a review team has not yet been established, the Director shall request that the Advisory Council or another review team review that death. A team may also review deaths of at-risk adults if the alleged abuse or neglect occurred while the person was residing in a domestic living situation.

A review team shall meet not less than 4 times a year to discuss cases for its possible review. Each review team, with the advice and consent of the Department, shall establish criteria to be used in discussing cases of alleged, suspected, or substantiated abuse or neglect for review and shall conduct its activities in accordance with any applicable policies and procedures established by the Department.

(c-5) The Illinois Fatality Review Team Advisory Council, consisting of one member from each review team in Illinois, shall be the coordinating and oversight body for review teams and activities in Illinois. The Director may appoint to the Advisory Council any ex-officio members deemed necessary. Persons with expertise needed by the Advisory Council may be invited to meetings. The Advisory Council must select from its members a chairperson and a vice-chairperson, each to serve a 2-year term. The chairperson or vice chairperson may be selected to serve additional, subsequent terms. The Advisory Council must meet at least 4 times during each calendar year.

The Department may provide or arrange for the staff support necessary for the Advisory Council to carry out its duties. The Director, in cooperation and consultation with the Advisory Council, shall appoint, reappoint, and remove review team members.

The Advisory Council has, but is not limited to, the following duties:

- (1) To serve as the voice of review teams in Illinois.
- (2) To oversee the review teams in order to ensure that the review teams' work is coordinated and in compliance with State statutes and the operating protocol.
- (3) To ensure that the data, results, findings, and recommendations of the review teams are adequately used in a timely manner to make any necessary changes to the policies, procedures, and State statutes in order to protect at-risk adults.
- (4) To collaborate with the Department in order to develop any legislation needed to prevent unnecessary deaths of at-risk adults.
- (5) To ensure that the review teams' review processes are standardized in order to convey data, findings, and recommendations in a usable format.
- (6) To serve as a link with review teams throughout the country and to participate in national review team activities.
- (7) To provide the review teams with the most current information and practices concerning at-risk death review and related topics.
- (8) To perform any other functions necessary to enhance the capability of the review teams to reduce and prevent at-risk adult fatalities.

The Advisory Council may prepare an annual report, in consultation with the Department, using aggregate data gathered by review teams and using the review teams' recommendations to develop education, prevention, prosecution, or other strategies designed to improve the coordination of services for at-risk adults and their families.

In any instance where a review team does not operate in accordance with established protocol, the Director, in consultation and cooperation with the Advisory Council, must take any necessary actions to bring the review team into compliance with the protocol.

- (d) Any document or oral or written communication shared within or produced by a review team relating to a case discussed or reviewed by the review team is confidential and is not admissible as evidence in any civil or criminal proceeding, except for use by a State's Attorney's office in prosecuting a criminal case against a caregiver. Those records and information are, however, subject to discovery or subpoena, and are admissible as evidence, to the extent they are otherwise available to the public.

Any document or oral or written communication provided to a review team by an individual or entity, and created by that individual or entity solely for the use of the review team, is confidential, is not subject to disclosure to or discoverable by another party, and is not admissible as evidence in any civil or criminal proceeding, except for use by a State's Attorney's office in prosecuting a criminal case against a caregiver. Those records and information are, however, subject to discovery or subpoena, and are admissible as evidence, to the extent they are otherwise available to the public.

Each entity or individual represented on a fatality review team may share with other members of the team information in the entity's or individual's possession concerning the decedent who is the subject of the review or concerning any person who was in contact with the decedent, as well as any other information deemed by the entity or individual to be pertinent to the review. Any such information shared by an entity or individual with other members of the review team is confidential. The intent of this paragraph is to permit the disclosure to members of the review team of any information deemed confidential or privileged or prohibited from disclosure by any other provision of law. Release of confidential communication between domestic violence advocates and a domestic violence victim shall follow subsection (d) of Section 227 of the Illinois Domestic Violence Act of 1986 which allows for the waiver of privilege afforded to guardians, executors, or administrators of the estate of the domestic violence victim. This provision relating to the release of confidential communication between domestic violence advocates and a domestic violence victim shall exclude adult protective service providers.

A coroner's or medical examiner's office may share with the review team medical records that have been made available to the coroner's or medical examiner's office in connection with that office's investigation of a death.

Members of a review team and the Advisory Council are not subject to examination, in any civil or criminal proceeding, concerning information presented to members of the review team or the Advisory Council or opinions formed by members of the review team or the Advisory Council based on that information. A person may, however, be examined concerning information provided to a review team or the Advisory Council.

- (d-5) Meetings of the review teams and the Advisory Council may be closed to the public under the Open Meetings Act. Records and information provided to a review team or the Advisory Council, and records maintained by a team or the Advisory Council, are exempt from release under the Freedom of Information Act.

- (e) A review team’s recommendation in relation to a case discussed or reviewed by the review team, including, but not limited to, a recommendation concerning an investigation or prosecution may be disclosed by the review team upon the completion of its review and at the discretion of a majority of its members who reviewed the case.
- (e-5) The State shall indemnify and hold harmless members of a review team and the Advisory Council for all their acts, omissions, decisions, or other conduct arising out of the scope of their service on the review team or Advisory Council, except those involving willful or wanton misconduct. The method of providing indemnification shall be as provided in the State Employee Indemnification Act.
- (f) The Department, in consultation with coroners, medical examiners, and law enforcement agencies, shall use aggregate data gathered by and recommendations from the Advisory Council and the review teams to create an annual report and may use those data and recommendations to develop education, prevention, prosecution, or other strategies designed to improve the coordination of services for at-risk adults and their families. The Department or other State or county agency, in consultation with coroners, medical examiners, and law enforcement agencies, also may use aggregate data gathered by the review teams to create a database of at-risk individuals.
- (g) The Department shall adopt such rules and regulations at it deems necessary to implement this Section.

Sec. 15.5 Independent monitor.

Subject to appropriation, to ensure the effectiveness and accountability of the adult protective services system, the agency designated by the Governor under Section 1 of the Protection and Advocacy for Developmentally Disabled Persons Act shall monitor the system and provides the Department review and evaluation of the system in accordance with administrative rules promulgated by the Department.

Holland & Knight LLP August 26, 2016

#47734113_v2

Roberts Rules - Summary

- **Point of Privilege:** Pertains to noise, personal comfort, etc. - may interrupt only if necessary.
- **Parliamentary Inquiry:** Inquire as to the correct motion - to accomplish a desired result, or raise a point of order.
- **Point of Information:** Generally applies to information desired from the speaker: "I would like to ask (the speaker) a question."
- **Point of Order:** Infraction of the rules, or improper decorum in speaking. Must be raised immediately after the error is made.
- **Main Motion:** Brings new business (the next item on the agenda) before the assembly.
- **Amend:** Inserting or striking out words or paragraphs, or substituting whole paragraphs or resolutions.
- **Withdraw/Modify Motion:** Applies only after question is stated; mover can accept an amendment without obtaining the floor.
- **Commit/Refer/Recommit to Committee:** State the committee to receive the question or resolution; if no committee exists, include size of committee desired and method of selecting the members (election or appointment).
- **Extend Debate:** Applies only to the immediately pending question; extends until a certain time or for a certain period of time.
- **Limit Debate:** Closing debate at a certain time, or limiting to a certain period of time.
- **Postpone to a Date Certain** State the date the motion or agenda item will be resumed.
- **Table or Lay on the Table:** Temporarily suspends further consideration/action on pending question; may be made after motion to close debate has carried or is pending. If motion passes, assembly may not consider question until it is taken from the table (see below).
- **Take from the Table:** Resumes consideration of item previously "laid on the table" - state the motion to take from the table.
- **Reconsider:** Can be made only by one on the prevailing side who has changed position or view.
- **Postpone Indefinitely:** Kills the question/resolution for this session. Exception: the motion to reconsider can be made this session.
- **Previous Question:** Closes debate if successful - may be moved to "**Close Debate**" if preferred.
- **Appeal Decision of the Chair:** Appeal for the assembly to decide - must be made before other business is resumed; NOT debatable if relates to decorum, violation of rules, or order of business.
- **Suspend the Rules:** Allows a violation of the assembly's own rules (except Constitution); the object of the suspension must be specified.



State of Illinois
Illinois Department on Aging

FATALITY REVIEW TEAM
TEAM MEMBER CONFIDENTIALITY AGREEMENT

I, _____ (*Name of Fatality Review Team Member*), as a member of the
_____ (*Name of Fatality Review Team*), agree to keep confidential client
and case discussion proceedings of the Team.

I agree to keep confidential all records and information, or data associated with the client and case proceedings. I agree to return to the designated Team Coordinator, Chairperson or Vice Chairperson, at the conclusion of a Team meeting, all confidential client/case discussion records, information, and any data related to any client/case proceeding of the Team. I have read and understand the confidentiality requirements of the Adult Protective Services Act.

Date

Signature

Printed Name



State of Illinois
Illinois Department on Aging

FATALITY REVIEW TEAM
GUEST PARTICIPANT CONFIDENTIALITY AGREEMENT

I, _____ (*Name of Guest Participant*), as a guest participant of the
_____ (*Name of Fatality Review Team*), agree to keep confidential
client and case discussion proceedings of the Team.

I agree to keep confidential all records and information, or data associated with the client and case proceedings. I agree to return to the designated Team Coordinator, Chairperson or Co-Chairperson, at the conclusion of a Team meeting, all confidential client/case discussion records, information, and any data related to any client/case proceeding of the Team. **See language from member form.**

Date

Signature

Printed Name

APPENDIX E



State of Illinois
Illinois Department on Aging

FATALITY REVIEW TEAM MEETING CONFIDENTIALITY AGREEMENT

Meeting Date: _____

I, as a member of, or as a participant on, _____ (*Name of Fatality Review Team*), agree to keep confidential all client/case information disseminated prior to or discussed at the _____ (*Name of Fatality Review Team*) meetings. I understand that any oral or written communication, or any document, shared within or produced by the _____ (*Name of Fatality Review Team*) or provided by a third party to the _____ (*Name of Fatality Review Team*) is confidential and not subject to disclosure or discovery by a third party, unless by an order of the court.

I also agree to return to the designated _____ (*Name of Fatality Review Team Coordinator*) all outside client/case information received prior to or during any meeting involving decedents, at the end of the meeting.

The undersigned agree to abide by the terms of this confidentiality agreement.

Name	Signature	Agency	Telephone	E-mail

FRT Member Appointment Form

Chair Person (Name)

(Sample Letter)

Street

City, State, Zip

Date

Director (Name)

Illinois Department on Aging

One Natural Resources Way, #100

Springfield, IL 62702-1271

Dear Director (Name):

Please consider this letter as a request per (320 ILCS 20/15 (b)) to appoint (name and profession of person joining) to join our team for a term beginning (date). We are thankful for (Name) and believe that (name of person joining) will be a valuable asset to our Team with (his/her) extensive knowledge and experience.

Thank you for your time, attention and consideration of this matter.

Sincerely,

(Name)

cc: Maureen Squires, Office of Adult Protective Services

FRT Reappointment Form

Chair Person (Name)
Street
City, State, Zip
Date

(Sample Letter)

Director (Name)
Illinois Department on Aging
One Natural Resources Way, #100
Springfield, IL 62702-1271

Dear Director (Name):

Please consider this letter as a request per (320 ILCS 20/15 (b)) to re-appoint (name and profession of person joining) to join our team for another 2-year term beginning (date). We are thankful for (Name) believe that (name of person joining) will continue to be a valuable asset to our Team with (his/her) extensive knowledge and experience.

Thank you for your time, attention and consideration of this matter.

Sincerely,

(Name)

cc: Maureen Squires, Office of Adult Protective Services

FRT Member Termination Form

Chair Person (Name)
Street
City, State, Zip
Date

(Sample Letter)

Director (Name)
Illinois Department on Aging
One Natural Resources Way, #100
Springfield, IL 62702-1271

Dear Director (Name):

We regret to inform you that (name of member) is no longer able to serve on the (name and location of FRT) effective (date).

(Name of person leaving) has served on our team as a representative of (20/15 b-5 profession) and gave generously of (his/her) time and expertise. Our team is grateful to (name of person leaving) for (his/her) dedication to this issue.

At this time, we are in the process of searching for a new representative for our team. Once this individual has been identified, we will submit a written request for your review for appointment.

Thank you for your time and attention to this matter.

Sincerely,

(Name)

cc: Maureen Squires, Office of Adult Protective Services