

Adult Protective Services Preparation



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PRACTICING LAW IN BUSINESS,
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S.U.C.C.E.S.S.

Silence is Golden! silent air, quiet, empty space, 😊 simply stare blankly

Uninterrupted! wait, wait, wait until they stop talking

Confidence! show confident body language and a firm voice

Confessions/no! you can refuse to answer any question*

Exactness/no! vague language, avoid exact data

Short answers! less is more, let your attorney help clarify matters later*

Seriousness! don't laugh, don't joke, they can joke and laugh – you, never

If you are alone, you should clarify your answers but try to keep it short!

REMEMBER

- Truth and Honesty
- Silence is Golden
- Exactness is a NO-NO
- Inhale slowly, Exhale slowly, breathing from you gut relaxes you
- Seriously, don't smile and don't laugh (investigator can but not you)
- Short, short, short answers
- Do not add or volunteer information

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AVOID

Instead of crying, yelling, forming a fist, blocking the investigator, slamming doors or drawers, stomping around, or any other such behaviors, ask for a break or ask to be excused for a moment.

IMMEDIATELY BEFORE THE INTERVIEW

You must get their business card of each State agent and the APS Fact Sheet. The APS “**FACT SHEET,**” describes your rights. Read every paragraph before the interview in a private room – away from them! Decide whether you will be interviewed with an attorney present. Whatever you say can be used against you and may be used in a future lawsuit and a police investigation.

You will want to document the investigator’s visits in your Visitor Log: date/time of arrival and leaving the AFH. DSHS agents are not required to write in the log.

A caregiver needs to write the date/time they arrived /left on their business card. Scan or make a copy of the business cards. Document their questions and your answers after they leave. The agent has already prepared a list of questions and probably has already reviewed information, such as police reports, hospital/EMT reports – so do not guess if you do not know.

You are not required to retain (hire) an attorney, but you have the right to one. If APS already interviewed you or your caregiver(s), your documentation of the interview(s) will help your attorney.

Unless you are educated and experienced in interview techniques, use caution and carefully consider using or avoiding certain words. Your words can be taken out of context and become “sound bites.”

The agent’s perspective:

- They have a job to do and sincerely believe there is a problem.
- They insinuate that they have evidence to gain a desired response from you.
- They show a sympathetic attitude to get you to open up.
- They have personal or career agendas that are hidden from you.
- They do have evidence and want to substantiate it with as much documentation or statements possible.

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Too broad an interview: The agent is required to focus on the nature of the issue only. The agent is not to roam around looking for new failures unless there is a relation to the issue. No irrelevant or exploratory questions.

If you have an attorney, the attorney will deal with the agent.

APS does not have the authority to:

- remove a resident against their will,
- detain or arrest anyone,
- act as guardianship services,
- act as emergency response personnel, such as law enforcement or emergency medical transport personnel,
- force residents to accept their services.

THE INTERVIEW & RECORDS

For face-to-face interviews – Never be interviewed in the presence of persons from other State programs (RCS, HCS) or departments (DOH, Police) or they will be corroborating your words as evidence against you.

As it relates to the issue, the agent may request records from you and request additional interviews of you and staff. If you do not have an attorney, you or your staff may comply or decide no more interviews.

Avoid words or phrases: *unless you absolutely know the fact is correct*

- “neglect” “abuse” “left the home” “we don’t document”
- “sorry” “I won’t do it again” “I’m only human” “mistake”
- “I didn’t know” “never” “always”
- No definite numbers for heart rate, blood pressure, blood sugars
- No exact dates, no exact times – no exact anything
- “Give me another chance” “The caregiver did it”
- “I didn’t do anything wrong” “I did everything right”

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Better words or phrases to say: *being vague avoids being wrong*

- “early or later in the day/month/year” instead of a date
- “downward, upward” “could be” “perhaps” “slightly” “unsure”
- “light/dark” “about” “somewhat” “it is possible but unlikely”
- “don’t recall” “don’t remember” “I don’t know at this moment”

Do not volunteer by saying things like: *can always volunteer at a later time*

- I’ll look into it
- I’ll check the file
- I’ll call, I’ll email, I’ll fax, I’ll *anything*

IMMEDIATELY AFTER THE INITIAL INTERVIEW

You will be better served if you document all residents interviewed by the agent. You are allowed to check in on them after the agent has left. You should not ask about what was discussed with the agent but can ask about their feelings. You can ask, for example, ask: “How are you feeling? Do you want a glass of water or take a walk?” At times, a State agent’s interview agitates a resident, depending upon the resident. You may listen to the resident to calm them down.

If they express themselves in such a way so as to alarm you, you may document the conversation in the progress notes. If appropriate, you may contact the investigator’s supervisor, the durable power of attorney or guardian, or the ombuds about the resident’s feelings. If the resident begins exhibiting stressed behaviors after the agent’s interview with them, you should document in their progress notes.

Again - write down what the agent asked you and your answers as soon as possible!

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INVESTIGATION COMPLETE

Once the agent has completed their investigation, which is usually within ninety (90) days unless there is good cause, the agent will meet with their investigation team, which will determine the outcome. The Investigation Team Review.

If the outcome is good for you, you may never know it unless you request a “courtesy letter” after ninety (90) days from the start of their investigation:

If the agent ignores your request for a “courtesy letter,” you may need to email your request to their supervisor. You can use the “courtesy letter” for your record, potential lawsuits, and insurance premiums to your favor,

If the outcome is bad for you and there is a negative “finding,” you will know it. You will receive an APS notification letter and have thirty (30) days to appeal.

A “finding” is considered a fact by APS that it was “more likely than not” that you did or failed to do something that you had a direct legal duty to do.

If not appealed, you will never be able to care for a vulnerable adult or a child in a care setting for the rest of your life. You cannot be late in your appeal – not even by a single day – unless you are in a severe situation or health condition.