

|  | <b>Neglect and Abandonment</b>   |
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| <p><b>Rule definitions</b><br/>OAR 411-020-002 (d)</p> <p>OAR 411-020-002 (a)</p> <p><b>Statute Definitions</b></p> <p>ORS 124.050 (b)</p> <p>ORS 124.050 (c)</p> <p>ORS 163.200-205</p> | <p><u>Neglect</u> means the failure (whether intentional, careless or due to inadequate experience, training, or skill) to provide basic necessary care or services when agreed to by legal, contractual, or otherwise assumed responsibility when such failure may lead to physical or emotional harm. This includes failure of a person who has fiduciary responsibility to assure the continuation of necessary care (for example, failure to pay for necessary care resulting in the withdrawal of services).</p> <p><u>Abandonment</u> means the desertion or intentional forsaking of an older adult or person with a disability for any period of time by a person who has assumed responsibility for providing care, when that desertion or forsaking would place the adult at serious risk of harm.</p> <p>For adults, age 65 and older, there are statutory definitions</p> <p><u>Neglect</u> which leads to physical harm through withholding of services necessary to maintain health and well-being.</p> <p><u>Abandonment</u>, including desertion or willful forsaking of an elderly person or the withdrawal or neglect of duties and obligations owed an elderly person by a caretaker or other person.</p> <p><u>Criminal Mistreatment</u>, first and second degree</p> <ul style="list-style-type: none"> <li>• Withholding necessary and adequate food</li> <li>• Withholding physical care or medical attention</li> <li>• Leaving a dependent person unattended for a period of time likely to endanger the person’s health or welfare</li> <li>• Hiding or taking of a vulnerable person’s money or property or appropriating the money or property</li> <li>• Taking charge of a vulnerable person for the purpose of fraud</li> </ul> |
| <b>Application</b>   | <p>Neglect and abandonment are perpetrator-related neglect.</p> <ul style="list-style-type: none"> <li>• The reported perpetrator failed to do something that</li> </ul>   |

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|                                 | <p>resulted in actual or potential harm.</p> <p>There must be an assumption of the duties to provide care or services by the reported perpetrator (RP) for the reported victim (RV).</p> <p>Evidence of assumption of care duties could include:</p> <ul style="list-style-type: none"> <li>• Legal responsibility exists such as Power of Attorney, Guardianship, Health representative;</li> <li>• Verbal statements: Witnesses report that a person has assumed care;</li> <li>• Living with an dependent adult and providing care and support while living with a dependent adult; or</li> <li>• Receiving pay or in-kind benefits to provide care.</li> </ul> <p>It is not APS intention to penalize “Good Samaritans” that have no purpose in assuming care, but provide some care because no one else is available and they try to find appropriate care.</p> <p>Adult children, close relatives, and spouses do <b>not</b> automatically have a responsibility to provide care.</p> <p>Abandonment:</p> <ul style="list-style-type: none"> <li>• Leaving an adult, who is dependent for care, alone and the adult is harmed or has a realistic risk of harm, such as; <ul style="list-style-type: none"> <li>○ Leaving an adult alone who cannot obtain help in an emergency, or</li> <li>○ A pattern of showing up late or leaving early when providing care.</li> </ul> </li> <li>• Forsaking care of an adult who is dependent for care, such as: <ul style="list-style-type: none"> <li>○ Dropping an adult who is dependent for care, off at a hospital with no ID, or</li> <li>○ Not showing up and not finding someone to provide care.</li> </ul> </li> </ul> |
| Neglect and abandonment and the | <p>The means to the conclusion is investigation.</p> <p>Areas of neglect:</p>   |

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| <p><b>APS<br/>Function</b></p> | <ul style="list-style-type: none"> <li>○ Amenities: living conditions</li> <li>○ Medical</li> <li>○ Medication</li> <li>○ Nutrition</li> <li>○ Hygiene</li> </ul> <p>Investigation goals are to:</p> <ul style="list-style-type: none"> <li>● Determine if there is neglect and if so, who is responsible for care;</li> <li>● Identify relevant witnesses and evidence;</li> <li>● Gather the minimum necessary evidence by means of interviews, documents, photographs, creating investigation aids, and physical evidence;</li> <li>● Document all relevant evidence; and</li> <li>● Analyze and determine the facts of the case;</li> </ul> <p>All in relation to proving or disproving the allegation.</p> <p>Common Evidence:</p> <ul style="list-style-type: none"> <li>● Interviews, excited utterances.</li> <li>● APS observation and assessment.</li> <li>● Photographs</li> <li>● Medical reports</li> <li>● Pharmacy record, Medication bottles</li> <li>● Glasses, dental condition,</li> </ul> <p>To substantiate for neglect, there must be a preponderance of proof that there was</p> <ol style="list-style-type: none"> <li>1) Assumption of care or services,</li> <li>2) Care and services were not provided that caused harm or there was a reasonable risk of harm</li> <li>3) The RV has dependency for care.</li> </ol> <p>Assessment goals are to determine:</p> <ul style="list-style-type: none"> <li>● Level of harm or risk of neglect;</li> <li>● Ability of reported victim to make informed choices and protect interests about care;</li> <li>● Capability of the reported perpetrator to provide care that provides necessities, safety, and well-being for the reported victim;</li> </ul> |
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|   | <ul style="list-style-type: none"> <li>• What personal resources and natural supports are available to remove or mitigate neglect; and</li> <li>• Reported victim’s level of functioning,</li> </ul> <p>All in relation to allegation of neglect.</p> <p>Intervention goals are to restore adequate care, mitigate any emotional or physical harm from the neglect, and to prevent the perpetrator from neglecting the RV or any other adult that is dependent upon care.</p>   |
| <p><b>Perpetrator dynamics</b></p> <p>Caregiver Stress and Neglect and Abuse</p> <p>Domestic violence</p> | <p>Who are the caregivers who neglect?</p> <ul style="list-style-type: none"> <li>• Both male and female, but more females as they tend to be caregivers</li> <li>• Family members more than other groups.</li> </ul> <p>Most neglect and abuse is not due to caregiver stress. That is a myth.</p> <ul style="list-style-type: none"> <li>• Most willing and able caregivers do not alleviate stress by harmful acts.</li> <li>• Research shows that caregivers that do not abuse have the same amount of stress as caregivers that do abuse.</li> </ul> <p>Much of perpetrator neglect is due to power and control.</p> <p>When power and control is treated as caregiver stress:</p> <ul style="list-style-type: none"> <li>• The RV is blamed for being dependent.</li> <li>• The RP gets attention and support.</li> <li>• The RP’s power is increased.</li> <li>• The RV’s power is diminished.</li> </ul> <p>How to tell caregiver stress from power and control:</p> <ul style="list-style-type: none"> <li>• Language: In power and control situations, the RP blames the RV and is more concerned about the outcomes to the RP than the RV. In care-giver stress, the RV takes responsibility and shows sympathetic concern about the RV’s feelings and the outcomes to the RV.</li> <li>• In caregiver stress, the RP is genuinely remorseful and change his or her behavior and often accept services.</li> </ul> |

Ability to provide care

- Importantly, in caregiver stress, the abuse stops.

Caregivers may have different abilities to provide care:

|           | Able                      | Unable                      |
|-----------|---------------------------|-----------------------------|
| Willing   | <b>Willing and able</b>   | <b>Willing and Unable</b>   |
| Unwilling | <b>Unwilling and able</b> | <b>Unwilling and Unable</b> |

**Willing and Able:** The caregiver wants to assume responsibility for care and has the temperament, skills, and abilities to do so. Example: One time incident of caregiver grabbing the RV too hard and leaving bruises. RP responds to education about how to transfer RV correctly and there is no more bruises. Neglect may be function of caregiver stress if the caregiver changes behavior and neglect ends.

**Willing and unable:** The caregiver wants to assume care, but lacks the temperament, skills, or abilities. Example: A couple that have pledged to care for each other, but both are failing in health and cannot provide adequate care for each other.

**Unwilling and able:** The RV does not want to assume care, often lives off the RV, but would have the skills, and abilities if motivated. Often exploitation involved. Example: Adult children living with elderly parent or disabled sibling, who live with the RP so to not pay rent and live off the RV's income. Do bother to provide care.

**Unwilling and unable:** The caregiver lacks both motivation to provide proper care and the temperament, skills, and abilities. Abuse and neglect relating to domestic violence often fall in this category where motivation is power and control. Also, criminal thinking falls in this category. Examples: RP assumes POA, and then does not pay for RV's placement, so RV is evicted. RP is a HCW with an addiction that does not show up to do care, but turns in vouchers.

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| <p><b>Intervention</b></p> <p>Harm Reduction</p> | <p>Responses to neglect</p> <ul style="list-style-type: none"> <li>• Harm Reduction</li> <li>• Replace the perpetrating caregiver</li> <li>• Provide supports other than just the perpetrator caregiver</li> </ul> <p>Harm reduction is providing some interventions that reduce the harm or risk of harm when the problem will not be completely resolved.</p> <ul style="list-style-type: none"> <li>○ Harm reduction is often a way to improve the client’s situation with less intrusive interventions</li> <li>○ Respects self-determination</li> <li>○ Builds rapport and trust</li> <li>○ Small interventions often foster progressive change and have a larger impact beyond</li> </ul> <p>An example: When the RV wants the neglecting RP to remain as a caregiver, have Home Health provide a bath aide, so the RV has at least a bath or two a week and someone has eyes on the situation. Or providing finger foods such as nuts when someone has an alcohol dependency, so they have some nutrition.</p> |
| <p>Mentoring model for dementia</p>              | <p>Responding to adults as adults:<br/>Most adults draw their care giving beliefs and skills from being parented as a child and raising their own children. A significant part of parenting is teaching and learning depends upon having to remember things.</p> <p>However, children’s brains are growing brains and adult’s brains are developed. Adult brains that are affected by a medical condition may be declining in function. At a point in the decline, the adult will not be able to learn. Thus, a significantly impaired adult brain would not benefit from parenting. Parenting also diminishes the person status as an adult.</p> <p>The most appropriate approach for adults with dementia is a mentoring rather than a parenting approach. Enter their</p>  |

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| <p>Privacy</p>                    | <p>world:</p> <ul style="list-style-type: none"> <li>○ Distract, redirect, adapt surrounding.</li> <li>○ Allow him or her to do as much as possible.</li> </ul> <p>There are different mentoring models such as the “Best Friends Approach”: <a href="http://www.bestfriendsapproach.com">http://www.bestfriendsapproach.com</a>.</p> <p>Interventions should respect and safeguard an individual’s right to privacy. Follow privacy law and policy in contacting the individual’s natural support system and making referrals to services. Refer to <i>Program Generic Elements, Privacy of Protected Information</i>:<br/> <a href="http://www.dhs.state.or.us/spd/tools/additional/generic/index.htm">http://www.dhs.state.or.us/spd/tools/additional/generic/index.htm</a></p>   |
| <p>How much to intervene?</p>     | <p>Weigh the individual’s abilities to make decisions against the degree of risk. Protective services should be proportionate to this balance between risk and informed choice. A continuum follows that illustrates how to determine the degree of intervention.</p>  |
| <p>Continuum of interventions</p> | <p>Protective services are based upon providing the least restrictive intervention available. In responding to allegations of neglect and abandonment, the APS Specialist must employ a continuum of options from the least to the most restrictive:</p> <ul style="list-style-type: none"> <li>● Enhance or restore the reported functioning, if possible.</li> <li>● Engage the individual in consenting to participate in a voluntary plan about care.</li> <li>● Locate family who may offer support and assistance respecting confidentiality and the RV’s wishes.</li> <li>● Engage natural supports such as friends, neighbors, faith community, and community resources as the RV wishes.</li> <li>● Make referrals to SPD and community agencies and organizations.</li> <li>● When the individual declines services, determine if an emergency with grave risk exists and the individual has capacity to consent to or decline services.</li> <li>● If the individual has capacity and there is no grave risk, exhaust voluntary options for the individual. Keep the</li> </ul> |

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|  | <p>door open with the individual.</p> <ul style="list-style-type: none"> <li>• If an emergency with grave risk exists and the individual has capacity then staff the case.</li> <li>• If capacity is a concern, seek to enhance or , if possible restore the reported victim’s capacity.</li> <li>• If the individual does not have capacity and there is an emergency with grave risk, then involuntary action may be necessary such as guardianship, conservatorship, or mental health commitment for protection.</li> <li>• Within involuntary interventions, the least restrictive alternatives must be chosen.</li> <li>• Even with involuntary placement or a substitute decision maker, many interventions are still voluntary. The client retains their human rights.</li> </ul> |
| <p><b>Difficulties</b><br/>in<br/>investigation<br/>and<br/>intervention</p> | <p>Sometimes, the assumption of care can be ambiguous.</p> <p>The RV and RP may have a relationship that the RV wants to preserve.</p> <p>Sometimes you need to develop a working relationship with the RP in order to improve conditions for the RV.</p>  |
| <p><b>Risk Factors</b><br/>for neglect<br/>and<br/>abandonment</p>           | <p>There are certain vulnerabilities for neglect and abandonment:</p> <ul style="list-style-type: none"> <li>• Dependent upon care</li> <li>• Frail</li> <li>• Over 80-years-old</li> <li>• Loneliness, Often loss of a spouse or no family</li> <li>• Isolation, social or physical</li> <li>• Having an unemployed adult child with addiction or mental health issue.</li> <li>• For abandonment, being male</li> </ul>  |
| <p><b>Potential Indicators</b><br/>Of neglect<br/>and<br/>abandonment</p>    | <p>Environmental Indicators</p> <ul style="list-style-type: none"> <li>• Absence of necessities</li> <li>• Inadequate living environment</li> <li>• Signs of medication mismanagement</li> <li>• Unsafe housing when there are resources to pay for upkeep</li> </ul>  |

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|  | <p><b>Physical Indicators</b></p> <ul style="list-style-type: none"> <li>• Poor hygiene, soiled clothing, dirty hair or nails, matted or lice infested hair, odors, feces or urine</li> <li>• Glasses, teeth in bad shape</li> <li>• Unclothed or improperly clothed for weather</li> <li>• Skin breakdown</li> <li>• Skin rashes</li> </ul> <p><b>Physical Indicators</b></p> <ul style="list-style-type: none"> <li>• Dehydration</li> <li>• Untreated medical or mental conditions</li> <li>• Absence of assistive devices</li> <li>• Exacerbation of chronic disease despite a care plan</li> <li>• Worsening dementia</li> </ul> <p><b>Abuser Indicators</b></p> <ul style="list-style-type: none"> <li>• Anger, frustration, exhaustion</li> <li>• Isolates AV</li> <li>• Lacks skills to provide care</li> <li>• Unreasonably critical, dissatisfied with social and health care providers, changes providers frequently</li> <li>• Refuses to apply for additional services</li> </ul> <p><b>Behavioral Indicators</b></p> <ul style="list-style-type: none"> <li>• Observed in the AV:</li> <li>• emotional distress</li> <li>• nightmares or difficulty sleeping</li> <li>• sudden loss of appetite</li> <li>• confused and disoriented</li> <li>• fear of caregiver</li> <li>• self-destructive behavior</li> </ul> <p><b>Key Indicators</b></p> <ul style="list-style-type: none"> <li>• Isolation</li> <li>• Sudden changes</li> <li>• Gut feeling something is not right</li> <li>• An alleged victim's report of something not right</li> </ul> |
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| <b>References</b> | Fulmer, T. & Paveza, G. Neglect in the elderly patient. (1998). <i>Nursing Clinics of North America</i> . 33(3), 457-467. |
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