



# MENTAL RETARDATION BULLETIN

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF PUBLIC WELFARE

DATE OF ISSUE  
February 11, 2003

EFFECTIVE DATE  
Immediately

NUMBER  
00-03-01

SUBJECT:

Passage of Act 171 relating to the Older Adults Protective Services Act (OAPSA)

BY:

Nancy R. Thaler  
Deputy Secretary for Mental Retardation

## SCOPE:

County Mental Retardation Program Administrators  
Base Service Units  
55 Pa. Code Chapter 6400 Programs  
55 Pa. Code Chapter 6500 Programs  
55 Pa. Code Chapter 6600 Programs

## PURPOSE:

The purpose of this bulletin is to advise of the passage of Act 171 (House Bill No. 2055) as it relates to Chapter 7, *Reporting Suspected Abuse by Employees*, of the Older Adults Protective Services Act (OAPSA).

## BACKGROUND:

The OAPSA of 1987 was enacted to protect Pennsylvanians, age 60 and older, against abuse, neglect, exploitation or abandonment. Act 13 was signed into law on June 9, 1997 as an amendment to the OAPSA. The chapters that were amended by Act 13 included Chapter 5, *Criminal History For Employees*, and Chapter 7, *Reporting Suspected Abuse by Employees*. Unlike the other provisions of OAPSA that applied only to adults age 60 and above, Act 13 applied to adults age 21 and above who were considered "care-dependent" individuals and to "care-dependent" individuals under age 21 if they resided in a facility serving individuals over age 21. The OAPSA defines a "Care-dependent individual" as "An adult who, due to physical or cognitive disability or impairment, requires assistance to meet needs for food, shelter, clothing, personal care or health care". The OAPSA further defines a "Home Health Care Agency" as "A public or private agency or organization, or part of an agency or organization, which provides care to a care-dependent individual in the individual's place of residence." These definitions within Act 13 made the provisions of OAPSA applicable to care-dependent individuals who receive care, services or treatment in facilities that serve one or more

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

Appropriate Regional Mental Retardation Program Manager

adults, or who receive services in their place of residence. Act 13 did not cover facilities serving children unless the child under age 21 was served in a facility that also provided services for adults. The Department of Public Welfare (DPW) required that all facilities covered by Act 13, which were licensed, approved, or funded by DPW, would ensure that the requirements of the Act were followed and reviewed with facility administrators and employees at least annually.

Since Act 13's inception, DPW has complied with Chapter 7 of OAPSA, *Reporting Suspected Abuse by Employees*, by requiring abuse reporting for individuals with mental retardation, regardless of age, to the Area Agency on Aging (AAA) in addition to the 55 Pa Code reporting requirements to the Office of Mental Retardation (OMR/DPW). This required that reporting of abuse to the AAA be on a form provided by the Pennsylvania Department of Aging while the Office of Mental Retardation required reporting through an OMR approved form and recently via on-line reporting through the Home and Community Services Information System (HCSIS).

## **DISCUSSION:**

Act 171 eliminates the requirement that the entities listed within this bulletin report incidents of suspected abuse for individuals with mental retardation under the age of 60 to both the AAAs and the DPW/OMR. Effective February 9, 2003, pursuant to Act 171, when reporting abuse as defined in OAPSA, for individuals under the age of 60, an entity is only required to report to the DPW/OMR. However, if the incident involves an individual 60 or older, the entity must continue to report the incident to the local AAA and the DPW/OMR pursuant to Chapter 7 of the OAPSA.

Entities will continue to comply with all other applicable chapters of OAPSA including Chapter 5, *Criminal History For Employees*.