



Presentation on Senate HHS Charge 6 relating to guardianship programs

Senate Health and Human Services Committee

May 12, 2010

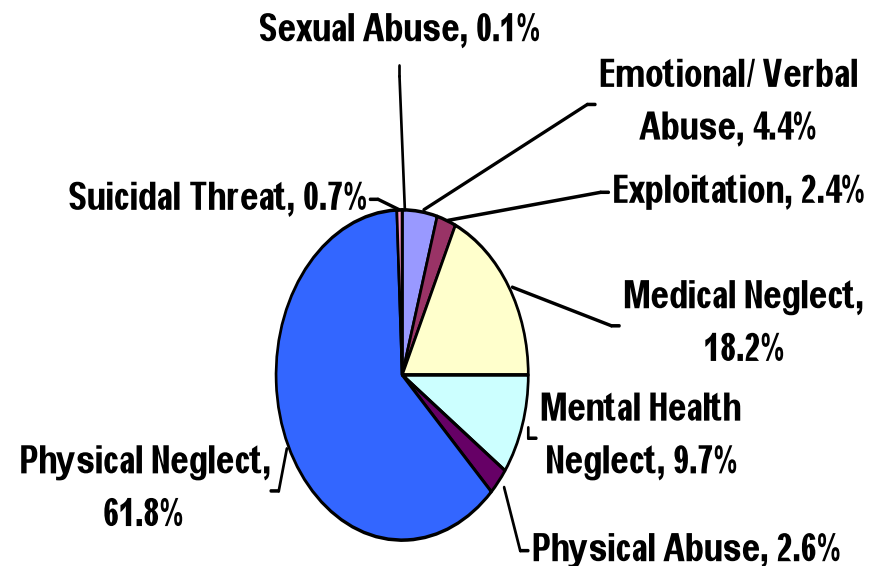
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APS Mission

The mission of Adult Protective Services (APS) is to protect the elderly and adults with disabilities from abuse, neglect, and exploitation (ANE).

In FY 2009, in the APS In-home program...

- 89,489 Reports of ANE
- 72,265 Investigations Completed
- 50,936 Investigations with at Least one Allegation Validated
- 69,841 Validated Allegations (see pie chart)
- 453 referrals to DADS for Guardianship



History of the Guardianship Services Program in Texas

- The State Guardianship Services program was established as part of the APS program in September 1993 to serve children aging out of foster care and began including APS clients in September 1995.
- The State Guardianship program was transferred from APS to DADS during APS reform in December 2004.
- The transfer of the guardianship program to DADS was codified in SB 6 effective 09/01/2005
- A Memorandum of Understanding (MOU) was created in 2006 between DFPS and DADS outlining the roles and duties of each agency.

APS Investigates Allegations of ANE

- Chapter 48 of the Human Resources Code authorizes APS to investigate allegations of abuse, neglect, or exploitation (ANE) of elderly and adults with disabilities. As part of the investigation, APS:
 - Conducts a thorough assessment of client needs in every case using CARE tool
 - May obtain Emergency Orders for Protective Services (EOPS) if the client is in a state of abuse or neglect “that presents a threat to life or physical safety”
 - May obtain a professional assessment* of a client’s capacity “to consent to services” when:
 - An EOPS is needed,
 - A client at high risk (i.e., a threat to life or a serious imminent threat to physical safety) refuses services,
 - A client is in an **ongoing** state of ANE and may need a guardian
- Once the investigation has been completed, APS develops a service plan to remedy the abuse, neglect or exploitation validated during the investigation, which may include a referral for guardianship services among other things.

*This assessment is not the same as a certified medical assessment required for guardianship under the Probate Code.

APS Makes Referrals to Guardianship Programs

- Before referring a client to a guardianship program, APS determines if:
 - The client is in an **ongoing** state of ANE and is at risk of ANE
 - Initial indications are that:
 - Least restrictive alternatives (LRAs) through family and friends or other social services are not adequate to protect the client
 - No suitable family or friends are willing to serve as an “alternate guardian”
 - The client has sufficient resources or benefits to meet his or her needs or will be eligible for resources or benefits
 - Guardianship may resolve some or all of the problems and protect the client
- If APS considers a public guardian necessary, then:
 - The case is reviewed by the APS regional risk/exploitation specialist to ensure the case is appropriate for referral.
 - A referral is made to:
 - DADS guardianship services
 - County programs in Houston and Galveston Counties

APS Assists in the Guardianship Process

- If APS makes a referral to the DADS guardianship program, then:
 - The caseworker completes a detailed referral form that:
 - Outlines the client problems that a guardianship will address
 - Provides information on LRAs and alternative guardians explored
 - Provides other relevant case information for the guardianship assessment, including 6 month prior ANE history
 - The regional risk/exploitation specialist approves the referral
 - APS staff work in partnership with DADS guardianship staff to:
 - Assist in their assessment
 - Prepare information for filing with the probate court
 - Serve as a resource during the probate proceedings
- APS continues to provide services as long as needed to ensure client protection.

Changes Resulting from HB 3112 (81st Texas Legislature)

- DADS must file for guardianship in 70 days or request a one-time 30-day extension from APS.
- The MOU was updated to address HB 3112 and also addresses other policy and process improvements.
- Policies, procedures, and training have been implemented to reflect the changes outlined in the updated MOU.

Current Landscape

- APS and DADS will continue to work together to protect clients that need guardianship services
 - Implementation of the recent MOU will improve the APS referral process
 - A direct electronic interface is being established for guardianship referrals to be sent from DFPS to DADS
 - APS and DADS will continue to use a cross-agency appeals process to handle difficult cases
 - Through the Interagency Steering Committee, APS will monitor implementation of HB 3112 (81 R) and the MOU
- APS is the safety net for the safety net.
- Issue is capacity in the system.

**Addendum -
Typical Profiles of Clients Potentially
Needing Guardians**

Profile of an APS Guardianship Referral

- Married couple in their 80s, both with dementia and multiple medical concerns. Incapable of managing medications. Evicted from multiple care settings due to non-payment because of exploitation by grandson. Daughter attempted to take over as power of attorney, but couple accused her of stealing, mismanaging funds, and she is no longer willing to be involved.
- DADS files for temporary guardianship, then pursues permanent.

Profile of an APS Guardianship Referral

- 81 year-old female living alone. Appears to have dementia. Living conditions are deplorable, ceiling collapsing in half the home, windows broken out, trash everywhere and raccoons are in the home. Son has been estranged for years. Client refuses to leave the home.
- Emergency Order of Protective Services (EOPS) to remove and place client, referred and accepted for DADS guardianship.

Profile of an APS Guardianship Referral

- 53 year-old female with mental disability. No family willing/able to obtain guardianship. She has been in and out of group home settings many times. “Boyfriend” finds her and takes her from placements. On “payday” he takes her check and will leave her alone for weeks at a time. He is sexually and physically abusive. When she does have cash she “banks” it in her P.O. box.
- Placed in ICF/MR, referred and accepted for DADS Guardianship.