

Senate Banking & Insurance Committee and Senate Aging & Youth Committee

Joint Public Hearing on Protecting Seniors from Financial Exploitation

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Testimony of Valerie A. Arkoosh, MD, MPH

Secretary of Human Services



Pennsylvania  
**Department of Human Services**

Good morning, Chairs DiSanto, Ward, Street, and Collett, members of the Senate Banking & Insurance and Aging & Youth Committees, and staff. I appreciate the opportunity to testify today. As Secretary of the Pennsylvania Department of Human Services (DHS), I am here to discuss a critical issue—modernizing the **Older Adults Protective Services Act (OAPSA)**. The changes the Shapiro Administration proposes are designed to strengthen protections for some of the most vulnerable people in Pennsylvania—older adults and individuals with disabilities.

Both as a physician and in my role as Secretary of DHS, I've seen firsthand the incredible importance of safeguarding these populations. Older Pennsylvanians deserve to age with dignity, and individuals with disabilities deserve to live with the highest level of care and respect. We need to make sure that the systems

in place to protect them are **seamless, consistent, and strong**, no matter their age or the circumstances they find themselves in.

## **DHS's Role and the Need for Consistency**

Currently, DHS oversees **Adult Protective Services (APS)**, which protects adults aged 18 to 59 living with disabilities, while the **Department of Aging** manages protective services for those 60 and older under OAPSA. The challenge is that these two systems, while similar in purpose, operate under different rules. APS operates under the authority of Act 70 of 2010, which is separate from OAPSA—an almost 40-year-old statute that is in desperate need of updates. The inconsistency between systems can create confusion for service providers and, most importantly, gaps in protection for individuals as they age into a different system.

Imagine turning 60 and finding out that the protections you relied on are suddenly different just because of your birthday. That is the

reality of the current system because the older adult and adult protective services statutes are not aligned. What Pennsylvanians deserve is consistency—protection that follows the person, no matter how old they are. It's similar to what the Commonwealth does in **Early Intervention**, where children under the age of 3 are supported by DHS, and then transition to the Department of Education's programs once they turn 3. The services may be managed by different agencies, but the **care and criteria remain consistent**, ensuring that these young children don't experience gaps in their developmental support. We need the same level of seamless care for our older adults and individuals with disabilities.

### **Operational Burden and Modernization**

Service providers across Pennsylvania, especially those working with both older adults and younger individuals with disabilities, often have to juggle two sets of regulations with different definitions and procedures. This creates an **operational burden**

that takes away from the time and resources they could be devoting to actual care. Creating better alignment across systems will not only make things clearer for providers but also ensure that everyone—no matter their age—gets the same equal level of protection and care.

It's also important to note that **OAPSA hasn't been updated in more than 35 years**. Since then, the way we provide care has changed dramatically with new types of providers that did not exist almost 40 years ago. More people are living longer and staying in their homes or community settings rather than moving to long-term care facilities. Technology, like telehealth and inhome monitoring, is transforming how we deliver care. If we don't modernize OAPSA and our protective services system to reflect these changes, we're leaving our most vulnerable populations at risk.

In fact, the **Pennsylvania Department of Aging's "Aging Our Way, PA"** 10-year plan emphasizes the need for older adults to have the **freedom to age in their chosen community, with dignity and independence**, supported by the services they need. This includes the ability to age in place, in their own communities. The proposed changes to OAPSA align perfectly with this vision, ensuring that our older adults are not just protected, but supported in living meaningful, fulfilling lives.

### **Eliminating Inconsistencies and Creating Alignment**

One of the biggest challenges we face today is the **inconsistent statutory definitions** between OAPSA and APS and the lack of statutory authority for the coordination and cooperation in the protective services space. These differences create gaps in protection, making it harder to ensure safety. Let me explain a few areas where these inconsistencies and responsibilities have been addressed in the draft OAPSA legislation:

- **Facility:** Right now, OAPSA defines “facility” very narrowly, mainly focusing on long-term care facilities. But today, care happens in many different settings, some of which did not exist when OAPSA was first enacted —people’s homes, community centers, and adult day programs. The draft legislation expands the definition of facility so we can protect individuals no matter where they’re receiving care.
- **Least restrictive alternative:** OAPSA does not define “Least restrictive alternative.” The draft legislation builds upon the definition of “Least restrictive alternative” in APS, recognizing the necessity of protecting the right to selfdetermination and agency of older adults and people with disabilities. This also reflects increased attention by the federal government on the need for providing services in an environment that still allows for the individual to have agency and make decisions about their own life.

- **Health and Safety Requirements:** OAPSA does not currently require Area Agencies on Aging to make reports to child protective services or adult protective services. The draft language makes this requirement explicit to help Area Agencies on Aging understand their responsibilities in ensuring the health and safety needs of any dependents of the older adult are also met while he or she is receiving protective services.
- **Agency Collaboration:** The draft legislation will aid immensely in collaboration and coordination between DHS and the Department of Aging. Sometimes Area Agencies on Aging receive reports of abuse for adults who fall under the APS statute. The revised **draft ensures** information sharing so that DHS and the Department of Aging can coordinate when a person turns 60 and no longer falls under the purview of APS, or when an adult with a disability needs to be connected with APS by an Area Agency on Aging.



## **Background Checks and Lessons from Child Welfare**

Another critical piece of this overhaul is requiring **FBI background checks for all applicants, administrators who have or may have direct contact with a recipient, and operators who have or may have direct contact with a recipient**, regardless of how long they've lived in Pennsylvania.

OAPSA exempts people who have lived in the Commonwealth for at least two years from FBI background checks, but that leaves a dangerous gap. If someone has committed offenses in another state, a Pennsylvania State Police criminal history would not include the out-of-state crime. This is especially risky for older adults and individuals with disabilities and why DHS requires a more comprehensive child abuse history certification in the child welfare space.

It is important to understand that DHS relies on the protections of OAPSA to safeguard participants in our programs. The Office of

Developmental Programs as well as the Office of Long-Term Living rely on the OAPSA background check requirements for DHS regulations and the waiver programs. Because of DHS's reliance on OAPSA background checks, we are especially concerned about potential gaps in the current requirements.

This exemption for people living in state creates a significant risk for the people DHS serves, as it may not document criminal history from other states. Updating OAPSA to include best practices for background checks will have the added benefit of those best practices being adopted by DHS, ensuring that FBI background checks are required for all applicants, administrators and operators who have direct contact with a recipient, regardless of how long they have resided in Pennsylvania and providing a more comprehensive and uniform system of protection for vulnerable individuals.

This is the approach currently utilized in child welfare. To assist with the initial impact on applicants and providers during the

rollout of expanded background check provisions in child welfare, particularly in rural areas where access to fingerprinting required by the FBI can be limited, DHS utilized **innovative solutions** to address fingerprinting Commonwealth-wide. In some communities, providers have worked together to establish **centralized locations** where potential employees can get all their background checks done, including FBI fingerprinting, in one visit. This model has worked well in rural areas and could be replicated for OAPSA to ensure that applicants are thoroughly vetted without causing delays in hiring.

DHS also understands that the expanded FBI background check in the draft legislation could cause an initial burden on providers and participants who direct their own services. We acknowledge that the long-term care industry is still recovering from the pandemic. However, the FBI background checks for all applicants,

administrators, and operators are essential to keep older adults and people with disabilities safe. DHS has seen how providers in the child welfare space have overcome these hurdles and are committed to working with our partners in the Department of Aging to minimize the administrative burden the FBI background checks might create.

## **Protecting Vulnerable Populations**

OAPSA impacts a significant portion of our Commonwealth's population—**2.2 million older adults** and **many individuals with disabilities who live, work, or receive services in facilities or receive home and community-based services**. Pennsylvania taxpayers invest **billions annually** in services for these groups. It's our responsibility to make sure that investment is used wisely and that these individuals are safe from abuse, neglect, and exploitation.

The reality is, we can't afford to have **inconsistent or outdated protections**. A 59-year-old with a disability shouldn't have different protections the day before their 60<sup>th</sup> birthday than they do the day after. That's why it's so important to align OAPSA and APS. We must ensure that everyone receives the same level of protection, regardless of age.

## **Conclusion**

We are at a critical juncture. The focus of today's hearing is to discuss the comprehensive legislative updates to OAPSA, which has been in place for over 35 years without significant change. It's time to bring this legislation in line with the realities of today's world and **set the highest standards** for care. By doing so, we ensure that all vulnerable individuals—whether they're 59 or 60—receive the same protections. This consistency will also reduce operational burdens and make it easier for providers to deliver the safe, high-quality care that Pennsylvanians deserve.

I urge you to take this opportunity to create a system that protects our older adults and individuals with disabilities, aligns with the **"Aging Our Way, PA"** vision, and provides **the best care possible**. Thank you for your time and your commitment to the safety and security of older adults and individuals with disabilities. I'm happy to answer any questions you may have.