

MODEL POLICY

Policy Title: CAPS Data System Check for Employees Serving At-risk Adults

Adoption Date:

Approved Date:

Last Date Revised:

Last Date Reviewed:

Office of Origin: _____

I. PURPOSE

- a) As a licensed health care facility and employer, HOSPITAL is required to request a check of the Colorado Adult Protective Services (CAPS) data system to determine whether an applicant for employment that includes “direct care” of an at-risk adult has been substantiated of physical abuse, sexual abuse, caretaker neglect or exploitation of an at-risk adult.
- b) The purpose of this policy is to describe the requirements and procedures for HOSPITAL’s compliance with the CAPS data system.
- c) The requirements outlined in this policy do not preclude or replace other existing HOSPITAL policies, including [insert as needed].

II. REFERENCES

- a) Access to CAPS, Employment Checks [Section 26-3.1-111, C.R.S.]
- b) Health Facilities CAPS Checks [Section 25-1-124.7]
- c) Adult Protective Services Rule, Employer CAPS Checks [12 CCR 2518-1, Volume 30.960]
- d) HOSPITAL Administrative Policies [Hospitals should tailor this list to the Hospital’s current Policies]
- e) HOSPITAL Criminal Background Check Policy
- f) HOSPITAL Medical Staff Bylaws

III. DEFINITIONS

- a) **“Abuse”**, pursuant to Section 26-3.1-101(1), C.R.S., means any of the following acts or omissions committed against an at-risk adult:
 - a. The non-accidental infliction of physical pain or injury, as demonstrated by, but not limited to, substantial or multiple skin bruising, bleeding, malnutrition, dehydration, burns, bone fractures, poisoning, subdural hematoma, soft tissue swelling, or suffocation;
 - b. Confinement or restraint that is unreasonable under generally accepted caretaking standards; or,
 - c. Subjection to sexual conduct or contact classified as a crime under the “Colorado criminal code”, Title 18, C.R.S.
- b) **“Adult Protective Services (APS) Program”** means the State Department supervised, county department administered program that has the authority to investigate and/or assess allegations of mistreatment and self-neglect of at-risk adults. The APS Program offers protective services to prevent, reduce, or eliminate the current or potential risk of

mistreatment or self-neglect to the at-risk adult using community based services and resources, health care services, family and friends when appropriate, and other support systems. The APS Program focuses on the at-risk adult and those services that may prevent, reduce, or eliminate further mistreatment or self-neglect. The APS Program refers possible criminal activities to law enforcement and/or the district attorney for criminal investigation and possible prosecution.

- c) **"At-risk adult"**, pursuant to Section 26-3.1-101(1.5), C.R.S., means an individual eighteen years of age or older who is susceptible to mistreatment or self-neglect because the individual is unable to perform or obtain services necessary for his or her health, safety, or welfare, or lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his or her person or affairs.
- d) **"CAPS"** means the Colorado Adult Protective Services (APS) state department prescribed data system that includes reports of mistreatment of at-risk adults pursuant to Section 26-3.1-101(1.7), C.R.S.
- e) **"CAPS check"** means a check of the CAPS data system pursuant to Section 26-3.1-111, C.R.S.
- f) **"Direct care"**, pursuant to Section 26-3.1-101(3.5), C.R.S., means services and supports, including case management services, protective services, physical care, mental health services, or any other service necessary for the at-risk adult's health, safety, or welfare.
- g) **"Employee"**, pursuant to Section 26-3.1-111(2), C.R.S., means a person, other than a volunteer, who is employed by or contracted with an employer and includes a prospective employee.
- h) **"Employer"**, pursuant to Section 26-3.1-111(2), C.R.S., means a person, facility, entity, or agency described in Section 26-3.1-111(7), C.R.S., and includes a prospective employer. An employer includes, without limitation, a health care facility such as HOSPITAL, an adult day care facility, and facilities for persons with mental illness or intellectual and developmental disabilities operated by APS.

IV. POLICY AND PROCEDURE

- a) Prior to hiring a new employee or contractor who will provide direct care to an at-risk adult, HOSPITAL will request a CAPS check to determine if the applicant is substantiated in a case of mistreatment of an at-risk adult.
- b) **[Optional:] HOSPITAL may request a CAPS check for existing employees and contractors who provide direct care to an at-risk adult to determine if the person is substantiated in a case of mistreatment of an at-risk adult.]**
- c) **[Optional:] HOSPITAL may contract with a separate entity to conduct CAPS checks on behalf of HOSPITAL. The contracted entity must register with APS, and comply with this Policy and applicable Colorado law.]**
- d) HOSPITAL will request a CAPS check for the following categories of prospective employees and contractors who will provide direct care to at-risk adults **[Note: HOSPITAL should tailor this list. Do not include employees or contractors whose duties do not include direct care to at-risk adults]:**
 - a. All clinical professionals licensed or certified by Colorado's Department of Regulatory Agencies (DORA), including a certified addiction counselor, licensed addiction counselor, audiologist, marriage and family therapist, physician, physician assistant, anesthesiologist assistant, advanced practice nurse, certified

- nurse aide, registered nurse, occupational therapist, pharmacist and pharmacy intern, physical therapist, podiatrist, psychologists, registered psychotherapist, respiratory therapist, licensed social worker, licensed clinical social worker, speech language pathologist, surgical assistant and surgical technologists;
- b. Medical assistant;
 - c. Case managers and care coordinators not licensed by DORA;
 - d. Dieticians;
 - e. Genetic counselors.
- e) This policy does not apply to volunteers, **[OPTIONAL employees or contractors hired before January 1, 2019,]** and credentialed medical staff or allied health staff who are not under contract with HOSPITAL to provide direct care to at-risk adults.
 - f) As a condition of employment or contracting, each prospective employee or contractor who will provide direct care to an at-risk adult must provide the HOSPITAL with written authorization and any required identifying information necessary to conduct the CAPS check, on a form developed by APS.
 - g) **[Optional: HOSPITAL may require the applicant to pay the required fee for the CAPS check.]**
 - h) All information obtained through a CAPS check by HOSPITAL is confidential, and shall only be released to persons directly involved in HOSPITAL's hiring process or other permitted recipients pursuant to Section 26-3.1-111(6)(d).
 - i) Consistent with the law, HOSPITAL may hire or contract with a new employee or contractor prior to receiving the results of the CAPS check.
 - j) HOSPITAL will keep a record of the CAPS check for each new employee or contractor hired on or after January 1, 2019, in the HOSPITAL's personnel file.
 - k) All records of CAPS checks will be reviewed by **[Human Resources Department]**.
 - a. If the CAPS check reveals that the employee or contractor was substantiated in a case of mistreatment of an at-risk adult, APS will forward to HOSPITAL information concerning the mistreatment through electronic means or other means requested by the HOSPITAL.
 - b. The original CAPS check and the information from APS will be reviewed by **[Human Resources]** and may be considered in any hiring or retention decision, unless the information is false and the HOSPITAL knows the information is false.
 - c. **[Optional: Refer to applicable Human Resources process or policy for substantiated mistreatment of an at-risk adult.]**

ADDITIONAL POLICY CONSIDERATIONS