

Testimony to the House Committee on Human Services

Re: H.582 An act relating to Adult Protective Services

Madam Chair, Members of the Committee:

On behalf of the Department of Disabilities, Aging and Independent Living (DAIL), thank you for the opportunity to testify in support of H.582.

DAIL supports this bill as it accomplishes two necessary objectives:

1. Federal Compliance: Inclusion of Caregiver Negligence

First, H.582 updates Vermont's Adult Protective Services (APS) statute to modify the definition of "neglect" for purposes of the statute (Title 13 Chapter 69) protecting vulnerable adults from maltreatment.

Vermont's current statutory definition of "neglect" is largely unchanged from the original statute. Since that time, federal policy has evolved.

A new federal rule governing all state APS programs includes caregiver negligence as a primary form of maltreatment that state APS programs must investigate and substantiate when appropriate.

In a meeting on August 29, 2024, between federal Health and Human Services policy experts in Washington, D.C., and Vermont's Division of Licensing and Protection (DLP) and APS Directors, it was made clear that Vermont's exclusion of caregiver negligence from statute is not compliant with federal rule. Failure to amend statute accordingly will result in a **complete loss of all federal APS funding** to Vermont.

DAIL recognized some stakeholders, particularly those in the healthcare community, had concerns about changing the definition of "neglect" to include acts of "negligence." DAIL hosted a series of 15 meetings to work towards a compromise that meets the federal rule while minimizing negative consequences to the healthcare community. The resulting compromise allowed for reports of maltreatment of vulnerable adults to alternately go to entities other than APS and, when appropriate, be referred to APS. These alternate reporting methods are listed in the bill in Sec. 2 (b)1, (A) - (C)(2) and are illustrated in the "pathways" diagrams on pages 4-5 of this testimony.

H.582 brings Vermont into compliance and preserves federal funding essential to protecting vulnerable adults.

2. Operational Clarifications to Ensure Workable Timeframes

Second, H.582 makes minor but important procedural clarifications to allow APS operations to function within realistic timeframes.

Under current statute:

- A substantiated individual has 30 days to request a fair hearing.
- The Human Services Board must hold a hearing within 30 days after the date of the notice of substantiation.

If a request for a hearing is filed on Day 29, the statute would effectively require the hearing to be held on Day 30, which is not operationally viable.

Additionally, the Human Services Board meets monthly. The current statutory deadline does not align with that schedule, creating infeasible requirements.

H.582 corrects these timing issues without altering due process protections.

Stakeholder Process and Compromise

In 2023, DAIL proposed statutory language to address caregiver negligence. A coalition of healthcare professionals raised concerns about the impact on the caregiver workforce. DAIL acknowledged these concerns and committed to further stakeholder engagement. It was critically important that the safety and health of vulnerable Vermonters be addressed. Also critically important was the well-being of the workforce, both on an individual level and on a system-wide operational level. With this shared commitment and a solution-focused approach, this past year's engagement was deep and meaningful; collaborative and thoughtful. Through group meetings, many of which were facilitated, the team engaged together to reach a level of consensus that abides by CMS requirements while ensuring the shared goals of the group were met.

In calendar year 2025, DAIL convened **15 meetings** with representatives from **16 stakeholder groups** to work toward a mutually acceptable solution.

Through this APS Working Group, stakeholders developed:

- Alternate reporting channels (see charts below); and
- Expanded definitional language that addresses operational and professional concerns while preserving federal compliance.

All members of the APS Working Group agreed to the final language now reflected in H.582.

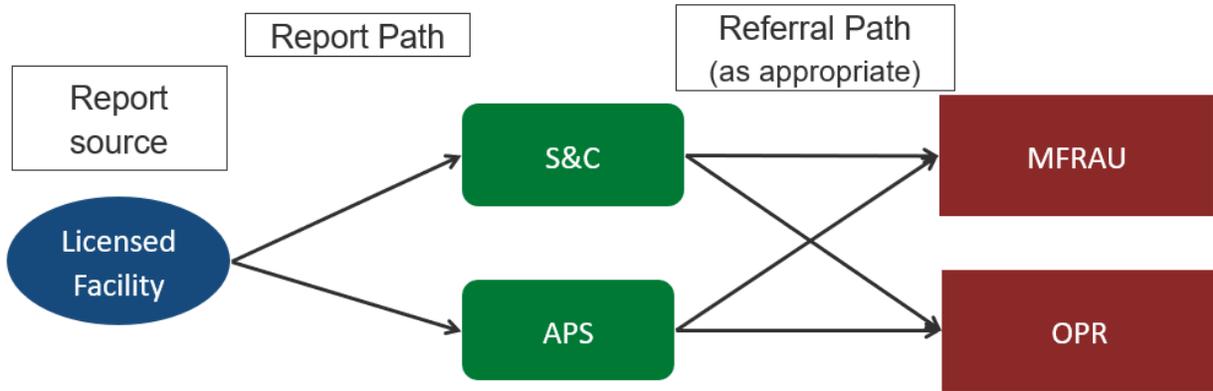
APS Working Group Participants

The following stakeholders participated in the APS Working Group and agreed to the bill language:

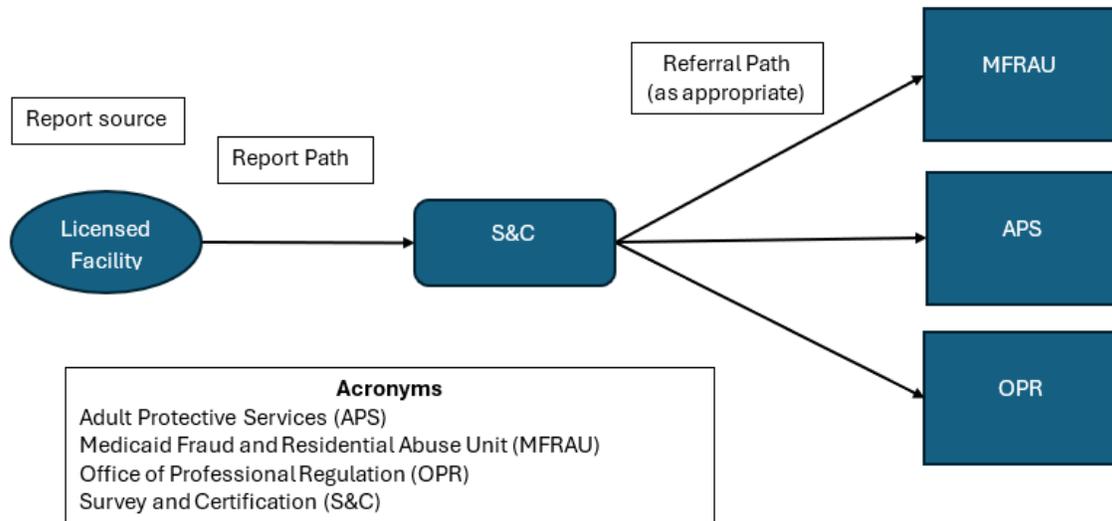
- **DAIL:** Dr. Jill Bowen, Angela Smith-Dieng, Rebecca Silbernagel, Joe Nusbaum, John Gordon
- **Medicaid Fraud and Residential Abuse Unit (MFRAU):** Elizabeth Anderson
- **Disability Rights Vermont:** Lindsay Owens
- **VNAs of Vermont:** Jill Olsen, Eric Covey
- **Vermont Medical Society:** Jessa Barnard
- **Vermont Association of Hospitals and Health Systems:** Devon Green
- **MMR Vermont:** Laura Pelosi
- **Vermont Legal Aid / Long Term Care Ombudsman:** Kaili Kuiper
- **Vermont Health Care Association:** Helen Labun
- **Office of Professional Regulation:** Jennifer Colin
- **Vermont Association of Area Agencies on Aging:** Mary Hayden
- **Senior Solutions:** Mark Boutwell
- **Vermont Care Partners:** Amy Johnson
- **UVM Health:** Betsy Hassan
- **Vermont Association for the Blind and Visually Impaired:** Steve Pouliot
- **Vermont Legal Aid:** Leah Burdick, Michael Benvenuto
- **Donovan Medicaid Strategies:** Jennifer Perkins
- **Office of the Public Guardian**
- **Medical Examiner's Office**

Existing and Proposed Reporting Pathways

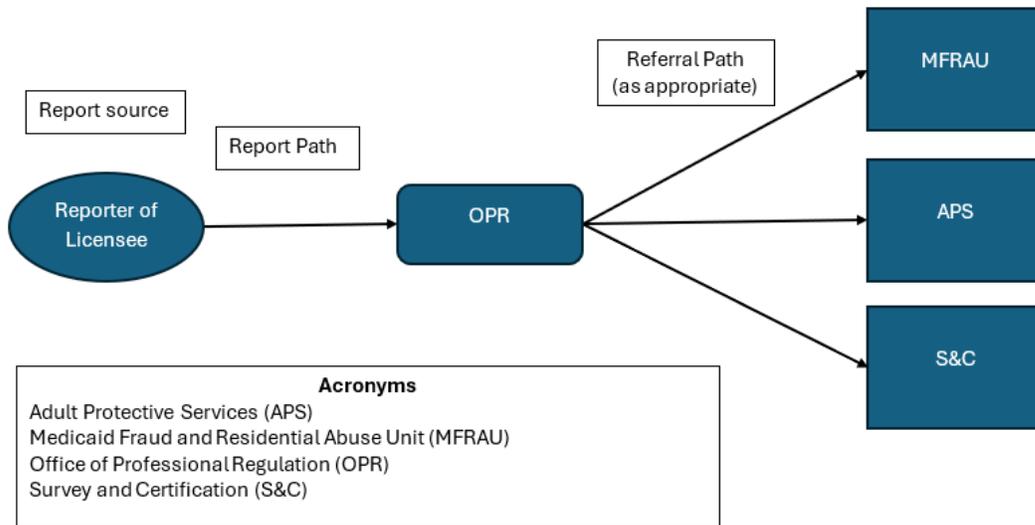
Current Reporting Path



Proposed Licensed Facility/Program Reporting Path



Proposed Licensee Reporting Path



Conclusion

H.582:

- Brings Vermont into compliance with federal APS rule;
- Preserves critical federal funding;
- Clarifies unworkable procedural timelines; and
- Reflects a consensus solution developed through extensive stakeholder collaboration.

DAIL respectfully urges the Committee to advance H.582 as written.

Thank you for your consideration.