Elder Abuse, Neglect, and Exploitation

By Toni Bonsera, APS Program Specialist

About Me

- Program Specialist since April 2017
- Located in Lincoln in the DHHS Central Office
- Duties include writing policy memos, teaching and training staff, stakeholders, and the public; providing technical assistance to Field Staff; research and networking with outside programs both across the state and out-of-state
- Bachelor of Arts in Communication from University of Scranton; Courses in Social Work at MCC Omaha
- Joined the State of Nebraska July 2005
- Previously worked in CPS Initial Assessment, Family Focus Case Management Pilot Program and Economic Assistance
Key Points

- Elder Abuse
- Types and Indicators of Vulnerable Adult Abuse, Neglect, Self-Neglect, and Exploitation
- Nebraska Mandatory Reporting Law
- Nebraska Adult Protective Services
- Ethical Principles in Working with Adults
- Vulnerable Adult Abuse Prevention

What is Elder Abuse?

- Elder abuse refers to any knowing, intentional, or negligent act by a caregiver or any other person that causes harm or a serious risk of harm to a vulnerable elder.

www.ncea.aoa.gov
How Common is Elder Abuse, Neglect, and Financial Exploitation?

► Approximately 1 in 10 persons age 60+ have been abused, neglected, or financially exploited in the last year.*
► Due to the rapidly increasing 60+ population, this translates to about 5 million victims annually.
► 90% of reported elder abuse is committed by the victim’s family.**


How Common is Elder Abuse, Neglect, and Financial Exploitation?

► Unfortunately, Elder Abuse is VASTLY under-reported.
► It is unclear exactly how much, however one study* found:
  ► Only one in every 23.5 cases is reported to any agency
  ► 1:44 Cases for Financial Abuse
  ► 1:57 Cases for Neglect

In Nebraska, alleged elder abuse in itself does not automatically warrant Adult Protective Services interventions.

In Nebraska, in order for APS to intervene the victim must meet the definition of a vulnerable adult.

Reports of elders who may be abused, but who do not meet the definition of a vulnerable adult, are not eligible for APS services.

Community referrals, law enforcement, and other legal remedies are sought.

A “Vulnerable Adult” is defined as:

Any person 18 years of age or older who:

› Has a substantial functional impairment; or

› Has a substantial mental impairment; or

› Has a Guardian or conservator appointed under the Nebraska Probate Code.
How Are Older People Injured?

- Unintentional injuries
- Well-intended caregivers
- By persons who can’t control their behavior due to medical conditions
- Abuse, neglect and/or exploitation

Vulnerable Adult Abuse and Neglect: The Basics

- **Who are victims?**
- **Who are the perpetrators?**
- **What are the types?**
Who are the Victims?

- In Nebraska, victims can be any age 18 and older, however the majority of cases are with older individuals.
- Victims are found across all races, ethnicities, sexual preferences, and socio-economic statuses.
- Victims can be found in both private residences and in facilities.

Vulnerable Adult Abuse and Neglect: The Basics

- Who are victims?
- **Who are the perpetrators?**
- What are the types?
Who are the Perpetrators?

- Perpetrators can have any relationship to the victim.
- Oftentimes, the perpetrator is a person the victim knows, depends on, and trusts, usually a caregiver or family member.
- There can be instances of the victim not knowing the perpetrator, and those are generally financial exploitation cases (scams) or physical abuse (stranger rape, robberies, etc.).
- Intimate partners, clergy, bank officers, and other persons in “authority” positions can also be perpetrators.

Who is a Caregiver?

- Any person or entity which has assumed the responsibility for the care of a vulnerable adult voluntarily, by express or implied contract, or by order of a court of competent jurisdiction.

Nebraska Revised Statute §28-353
Behaviors of Adult Abuse and Neglect Perpetrators

- Isolates victim
- Angry, aggressive behavior
- Indifferent
- Unrealistic expectations
- Does not show affection/empathy towards the victim
- Perceives victim as incompetent or demanding
- Acts burdened
- Won't consent to medical care or additional services
- Conflicting accounts
- Blames the victim

Perpetrator Excuses for Abuse and Neglect

- “She has always lived like this.”
- “He doesn't want medication/medical treatment.”
- “He refuses to eat.”
- “I didn’t know how sick she was.”
- “He Fell.”
Risk Factors for Abuse or Neglect

**Perpetrator**
- Untreated mental illness
- Untreated substance abuse
- Financial dependency on the victim
- History of hostility
- Feeling of burden, resentment
- Lack of knowledge

**Victim**
- Age
- Dementia or Cognitive Impairment
- Aggressive behaviors (physical or psychological)
- Physical impairment or disability (need assistance with ADLs/IADLS)
- Social Isolation

---

Risk Factors for Abuse or Neglect in Facilities

**Employee Risk Factors**
- Untreated mental illness
- Untreated substance use
- Excessive Absenteeism
- History of hostility/disciplinary actions
- Financial Problems
- Disciplinary Actions
- Poor Training
- Tardiness or Disappearance from Job Site
Risk Factors for Abuse or Neglect in Facilities

Facility Risk Factors
- Accepting residents whose needs cannot be met by facility
- High personnel turnover/overtime/absenteeism; frequent “reorganization”
- Inadequate or inconsistent managerial response to abuse/neglect
- Inconsistent and unclear expectations of staff
- Poor communication between administrators and staff
- Lack of proper and ongoing training for staff and administrators

Reframing Caregiver Neglect & Caregiver Stress

- Older people can be difficult to care for
- Persons with dementia can be very demanding and frustrating
- Caregiving can go on for years
- Caregiving is often done by busy people

**HOWEVER, current research does not support caregiver stress as a primary cause of elder abuse**
Vulnerable Adult Abuse and Neglect: The Basics

- Who are victims?
- Who are the perpetrators?
- What are the types?

Types of Maltreatment

- Abuse
- Neglect
- Self-Neglect
- Exploitation
Abuse
Nebraska Revised Statute §28-351

- Any knowing or intentional act on the part of a caregiver or any other person which results in:
  - Physical Injury;
  - Unreasonable Confinement;
    - NE Rev. Stat. §28-314, 28-315
  - Cruel Punishment;
  - Sexual Abuse; or
    - NE Rev. Stat. §28-319, 28-320
  - Sexual Exploitation
    - NE Rev. Stat §28-311.08

Indicators of Abuse

- Bruises
- Broken Bones
- Abrasions
- Burns
- Open wounds, Cuts, or Punctures
- Untreated injuries, or
- Injuries in various stages of healing
Specific Indicators of Unreasonable Confinement

- Friction burns from ropes, chains, or other physical restraints (generally on wrists, chest and ankles)
- Statements from caregivers or victim of keeping the person locked in their room
- Observations of the victim being restrained, tied to bed, tied to chair, locked in rooms, isolated
- Over medicated or under medicated

Specific Indicators of Sexual Abuse

- Bruises, lacerations, bleeding, or welts around the breast or genital area
- Unexplained venereal diseases or genital infection
- Unexplained vaginal or anal bleeding
- Unexplained pregnancy
- Torn, stained, or bloody underclothing
Neglect and Self-Neglect
Nebraska Revised Statute §28-361.01

- Any knowing or intentional act or omission on the part of a caregiver to provide essential services
- OR the failure of a vulnerable adult...to perform self-care or obtain essential services to such an extent that there is actual physical injury to a vulnerable adult or imminent danger of the vulnerable adult suffering physical injury or death.

Indicators of Neglect and Self-Neglect

- Poor hygiene
- Pallor, or sunken eyes or cheeks
- Extreme weight loss or weight gain
- Lack of glasses, hearing aids, dentures, prosthetic devices, etc.
- Skin disorder or rashes
- Inadequate supervision or wandering
Indicators of Neglect and Self-Neglect

- Dehydration – lack of food and water
- Untreated bed sores
- Untreated injuries or medical problems
- Decaying teeth, long toenails
- Hoarding Behavior (Self-Neglect)
- Poor housekeeping
- Inadequate clothing or shelter
- Lack of prescribed medication

Exploitation

Exploitation is defined as:

- The taking wrongful or unauthorized taking, withholding, appropriation, conversion, control, or use of money, funds, securities, assets, or any other of property of a vulnerable adult or senior adult by any person...
Exploitation
Nebraska Revised Statute §28-358
Revised 04/2016—LB 934

Property is taken by means of:
- Undue Influence,
- Breach of a fiduciary relationship, deception,
- Extortion,
- Intimidation,
- Force or threat of force,
- Isolation,
- Or any unlawful means, or
- By the breach of a fiduciary duty by the guardian, conservator, agent under a power of attorney, trustee or any other fiduciary of a vulnerable adult or senior adult.

Characteristics of Perpetrators of Exploitation
- Opportunists
- Predators
- Perpetrators may believe they are entitled to take the victim’s assets
- Perpetrators can be anyone:
  - Persons unknown to the victim
  - Persons known to the victim
Exploitation Examples
Perpetrator Not Known to the Victim

- Identity Theft
  - Uses personal information to commit theft or fraud
- Sweetheart Swindles & Fortune Telling Schemes
  - Use loneliness and the perception that “something is missing” in the victim’s life to exploit
- Grandparent Scam
- Predatory Lending
  - Unscrupulous and aggressive lending practices that take advantage of vulnerable borrowers

Exploitation Examples
Perpetrator Not Known to the Victim

- Sweepstakes/Lottery Scams
  - Must pay taxes/fees up front to collect “winnings”
  - Jamaican Lottery
- Confidence Crimes
  - Uses deception to gain another’s confidence
    - Annuity Scams
    - Charity Scams
    - Home Repair Scams
    - Telemarketing Scams
Exploitation Examples
Perpetrator Known to the Victim

- Using the vulnerable adult’s credit card or bank account for personal expenses
  - Gas, groceries, etc.
- Cashing a vulnerable adult’s checks without authorization or permission
- Stealing or taking the vulnerable adult’s medications or jewelry for personal use or sale
- The perpetrator “paying him/herself” for services provided to the vulnerable adult without express permission from the vulnerable adult
- Improper use of conservatorship, guardianship, or power of attorney
  - Refusing to allow necessary medical tests because of expense even though the vulnerable adult has sufficient income or insurance

Indicators of Exploitation

- Unusual banking and/or credit card activity (especially if it is inconsistent with the vulnerable adult’s abilities and history)
- Additional signatories on bank accounts
- Abrupt changes in a will or estate plan
- Disappearance of money and/or valuable possessions and property
- Recent transfers of property
Mandatory Reporting laws are designed to help protect persons who may not be able to protect themselves.

Who are Mandatory Reporters?

- Physicians
- Psychologists
- Physician Assistants
- Nurses
- Nurse Assistants
- Any other Medical Professionals
- Developmental Disability Professionals
- Mental Health Professionals
- Law Enforcement Personnel
- Caregivers
- Employee of Caregivers
- Operators and Employees of Sheltered Workshops
- Owners, Operators and Employees of Facilities Licensed by DHHS
- Any other Human Services Professional or Paraprofessional
- Others may make a report

Clergy are exempt from mandatory reporting, however they still may make a report.
Mandatory Reporting
Nebraska Revised Statute §28-372

- When any of the listed mandatory reporters has reasonable cause to believe that a vulnerable adult has been subjected to abuse
- OR observes such adult being subjected to conditions or circumstances which reasonably would result in abuse,
- He or she shall report the incident or cause a report to be made to the appropriate law enforcement agency or to the Department.

Employers of Mandatory Reporters

- Alert staff to their mandatory reporter responsibilities
  - May establish in-house procedures for making a report to the administrator
  - This notice may not prevent or delay a report
  - You do NOT have to prove there is abuse before you call.
**APS Act vs. ALF Regulation**

NRS 28-348 through 28-387

**APS Act**

Abuse: any knowing or intentional act on the part of a caregiver or any other person which results in physical injury, unreasonable confinement, cruel punishment, sexual abuse, or sexual exploitation of a vulnerable adult.

**175 NAC**

Abuse: any knowing, intentional or negligent act or omission on the part of a person which results in physical, sexual, verbal, or mental abuse, unreasonable confinement, cruel punishment, exploitation, or denial of essential care, treatment, and services to a resident.

---

**Mandatory Reporting**

- Safety of victims is the primary responsibility.
- It is not your role to verify that mistreatment is occurring or has occurred.
- If you question whether a report should be made, discuss the circumstances of the case with your supervisor or review with the hotline workers.
What to Report

- The name, address and age of the adult
- The name(s) and address of caregiver(s)
- The nature and extent of the alleged abuse or circumstances
- Any evidence of previous abuse
- Any other information that would be helpful in establishing the cause of alleged abuse
- The identity of alleged perpetrator, if known

Note Regarding HIPAA

- A covered entity may disclose protected health information about an individual whom the covered entity reasonably believes to be a victim of abuse, neglect or domestic violence to a government authority, including a social service or protective services agency, authorized by law to receive reports of such abuse, neglect or domestic violence.
- See 45 C.F.R. §164.512 (c) (1) (iii).
Failure to Report
Nebraska Revised Statute §28-384

- An employer cannot prohibit employees from making a report.
- Any person who willfully fails to make any report required by the Adult Protective Services Act may be guilty of a Class III Misdemeanor.
  - Maximum penalty of:
    - 3 months imprisonment
    - $500 fine
    - Or both

ALF Administrator Duties
175 NAC 4-006.02

- Develop and implement procedures that require the reporting of any evidence of abuse, neglect, or exploitation of any resident residing in the assisted-living facility in accordance with Neb. Rev. Stat. §28-372 of the Adult Protective Services Act or in the case of a child, in accordance with Neb. Rev. Stat. §28-711;
- Complete an investigation on suspected abuse, neglect or misappropriation of money or property and take action to prevent reoccurrence until the investigation is completed.
Mandatory Reporter Protections

- Immunity from civil or criminal liability when making a report or cooperating with an investigation
  - Except in cases of willful or wanton neglect of duty or when false statements are made with malicious intent
- Protection of identity
  - Name will not be released outside of DHHS except to Law Enforcement, County Attorney, Attorney General or by a court order

Where to Make a Report

- Call the Adult & Child Abuse & Neglect Hotline at: 1-800-652-1999
  - or
  - Law Enforcement
Any person who commits knowing and intentional abuse, neglect or exploitation of a vulnerable adult or senior adult or

Through a knowing and intentional act permits a vulnerable adult or senior adult to be abused may be guilty of a Class IIIA Felony

- Maximum penalty of:
  - 5 years imprisonment
  - $10,000 fine
  - Or both

Nebraska Adult Protective Services

- Nebraska Adult Protective Services (APS) is part of the Department of Health and Human Services, Division of Children and Family Services (DHHS-CFS)
- There are 32 APS workers and 6 supervisors across the state.
- In Nebraska each year, there were approximately 3000 accepted APS intakes statewide.
  - This represents a nearly 24% increase since 2008
  - The Omaha and Lincoln areas receive the majority of accepted intakes.
- APS has its own Continuous Quality Improvement process
**What Happens When You Report?**

- An intake worker at the hotline screens the information provided for:
  - Indications that the victim is a vulnerable adult, and
  - Indications that the reported abuse meets the definition of abuse/neglect/exploitation defined in the APS Act
- A report that meets the screening criteria is assigned to a local APS worker
What Does the APS Worker Do?

- Once the accepted intake is assigned, the APS worker interviews the alleged victim, alleged perpetrator, witnesses and any other person relevant to the situation.
- The APS worker collects evidence such as doctor reports, police reports, financial records, etc.
- Based upon collected evidence, the APS worker determines three things:
  - If the victim is vulnerable by statutory definitions
  - If the adult capable of making decisions
  - If abuse, neglect, self-neglect or exploitation occurred per statutory definitions.
- If it is found that abuse, neglect, self-neglect or exploitation occurred, ongoing services may be offered.
End of APS Assessment

- At the end of an APS assessment, if the APS worker finds, by a preponderance of evidence, that the abuse, neglect, and/or exploitation occurred, the perpetrator is placed on the APS Central Registry.
- No APS Central Registry entry is made for self-neglect investigations or investigations where the specific perpetrator(s) cannot be identified.

APS Central Registry

- This information is used to:
  - Provide potential employers information about a person as part of the pre-employment checks
  - Approve licenses for child care programs
  - Approve placement of children for foster care or adoption
  - Collect statistical data
  - Provide one source of information required for potential guardians and conservators
Requests for information:
- Are completed by the Central Office
- A registered provider who wants to receive information from the APS Central Registry/CPS Central Register about potential staff and/or volunteers must request approval from DHHS to be able to have access to the information.

How to become a “Registered Provider”:
- Submit a letter on your company's letterhead briefly describing your company's business and your reason for needing to conduct APS Central Registry/CPS Central Register checks.
- Mail your letter to:
  - Children and Family Services Policy Unit
  - Attn: APS Registry/CPS Register
  - P.O. Box 95026
  - Lincoln, NE 68509 - 5026
Ethical Principles

- Adults have the right to be safe.
- Adults retain all their civil and constitutional rights unless some of these rights have been restricted by court action.
- Adults have the right to make decisions that do not conform with societal norms as long as these decisions do not harm others.
- Adults are presumed to have decision-making capacity unless a court adjudicates otherwise.
- Adults have the right to accept or refuse services.

Vulnerable Adult Abuse Prevention in Facilities

- Facility Administration communication is clear and consistent that all residents and staff are treated with dignity and respect.
- Orientation and ongoing training programs are provided.
- Administrators and Supervisors are competent, accessible, and supportive to staff.
Vulnerable Adult Abuse Prevention in Facilities

- Staff have supplies and equipment to do their jobs. Staff are provided adequate break times and locations.
- Confidentiality of reporters is protected.
- There is proper screening of employees during the hiring process.
- Clear policies on reporting of abuse/neglect are posted and reinforced.
- Clear and reinforced policies and training on HIPAA, PHI, financial and other resident personal information.

Vulnerable Adult Abuse Prevention

- All community members must be involved to prevent vulnerable adult abuse including recognizing it and taking action when it is identified.
- Get to know:
  - Indicators of abuse, neglect, or exploitation
  - Aging and vulnerable adult service providers and what they offer
  - Local domestic violence programs
  - DHHS services, and
  - Faith based support
Other Resources

- Supreme Court Commission on Guardianship and Conservatorship
  - http://www.supremecourt.ne.gov/forms
- Nebraska Attorney General, Office of Consumer Protection
  - http://www.ago.ne.gov/consumer_protection
- Consumer Financial and Protection Bureau
  - http://www.consumerfinance.gov/?gclid=CJ3H75_r98wCFYkvQodhj8F5Q

Other Resources

- State Unit on Aging
  - http://dhhs.ne.gov/medicaid/aging/Pages/AgingHome.aspx
- Adult Protective Services
- National Adult Protective Services Association (NAPSA)
  - http://www.napsa-now.org
QUESTIONS?

- www.dhhs.ne.gov
- Toni Bonsera, Program Specialist
- 402-471-9700
- antonia.bonsera@Nebraska.gov

Thank You!