Child and Vulnerable Adult Abuse, Neglect, and Exploitation
Governor Pete Ricketts

Vision:
Grow Nebraska

Mission:
Create opportunity through more effective, more efficient, and customer-focused state government

Priorities:
• Efficiency and Effectiveness
• Customer Service
• Growth
• Public Safety
• Reduced Regulatory Burden

We Value:
• The Taxpayer
• Our Team
• Simplicity
• Transparency
• Accountability
• Integrity
• Respect
This Presentation will Cover

- Child abuse and neglect: the basics
- Vulnerable adult abuse, neglect, and exploitation: the basics
- Types and signs of abuse, neglect, and exploitation
- Nebraska mandatory reporting requirements
- Preventing abuse and neglect and knowing your resources
Protection and Safety

Child Maltreatment

• In Nebraska, in order for child protective services (CPS) to intervene, the victim must be under the age of 19 and the information reported meets criteria identified in the Structured Decision Making ® (SDM ®) Screening Tool.

• Community referrals, assessment of risk & safety, law enforcement, and other legal remedies are sought.

Vulnerable Adult Maltreatment

• In Nebraska, in order for adult protective services (APS) to intervene, the victim must meet the definition of a vulnerable adult and the information reported meets criteria identified in the Structured Decision Making ® (SDM ®) Screening Tool.

• 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.
Child Abuse and Neglect: The Basics

The next few slides offer a brief overview of child maltreatment and where to find additional information. This presentation is primarily on vulnerable adult maltreatment, as the majority of participants are adults.
Types of Child Abuse and Neglect

• Abuse
  Can include, but is not limited to: physical abuse, unreasonable use of confinement/restraints, cruel punishment, labor trafficking, drug exposed infant, or emotional abuse

• Neglect
  Can include, but is not limited to: physical neglect, failure to provide basic needs or supervision, medical neglect, abandonment, educational neglect, emotional neglect, domestic violence, or parent/caregiver substance use that impacts the safety of the child.

• Sexual Concerns
  Can include, but is not limited to: sexual abuse, sexual exploitation, and sex trafficking
Who are Victims?

- In Nebraska, a victim can be any child under the age of 19.
- Children with disabilities are at higher risk for maltreatment than children without disabilities.

A study in 2000* observed children with disabilities to be:

- 3.76 times more likely to be neglected;
- 3.79 times more likely to be physically abused; and
- 3.14 times more likely to be sexually abused.

Who Commits Child Abuse and Neglect?

- Abusers can have any relationship to the victim.
- The abuser is usually a person the victim knows, depends on, and trusts.
- Abusers can be other adults in a position of trust, such as clergy, coaches, or neighbors.
- Abusers can also be persons unknown to the child, such as:
  - People appearing as a child/teen through the internet/social media.
  - People posing as legitimate figures of authority, such as job or college recruiters.
More Information on Child Abuse and Neglect

More information about child abuse and neglect can be found in the following places:

- Child Protective Services Act
  - Nebraska Revised Statute §§28-710 to 28-727
  - Nebraska Administrative Code (NAC) Regulations:
    - 390 NAC – Child Welfare and Juvenile Services
    - 395 NAC – Children and Family Services: Protection and Safety
- Child and Family Services Homepage
  - http://dhhs.ne.gov/Pages/Child-Welfare.aspx
Vulnerable Adult Abuse, Neglect, and Exploitation: The Basics

Nebraska Revised Statute (Neb. Rev. Stat.) §§28-348 to 28-387 is the Nebraska Adult Protective Services Act.
Who is a Vulnerable Adult?


A “Vulnerable Adult” is any person 18 years of age or older who:

• Has a substantial functional impairment (Neb. Rev. Stat. 28-368); or
• Has a substantial mental impairment (Neb. Rev. Stat. 28-369); or
• Has a guardian or conservator appointed under the Nebraska Probate Code

In Nebraska, any person eligible for a disability program, such as Medicaid Home and Community-Based Services (HCBS) waivers, is automatically considered a vulnerable adult for the purpose of accepting a report of abuse or neglect. During the investigation additional assessments will determine if the individual has a substantial functional or mental impairment.
Who are Victims?

• In Nebraska, a victim must be a “Vulnerable Adult” for Adult Protective Services (APS) to intervene.
  • Police or others may intervene when APS cannot.
• In Nebraska, a victim can be any person age 18* and older; however, the majority of cases are older people.
• Victims are found across all races, ethnicities, sexual preferences, and socio-economic statuses.
• Victims can be found in both private residences and in facilities.

*In Nebraska, both the APS and CPS Acts cover people ages 18.
Who Commits Adult Abuse/Neglect?

• Abusers can have any relationship to the victim.
• The abuser is usually a person the victim knows, depends on, and trusts.
• Abusers can be other people in “authority” positions, such as boyfriends/girlfriends/spouses, facility staff, guardians, conservators, clergy, bank officers.
• There can be instances when a victim does not know the abuser. Those are generally financial exploitation (such as scams) or physical abuse (such as stranger rape or robberies).
Types and Signs of Abuse, Neglect, and Exploitation

Nebraska Revised Statute (Neb. Rev. Stat.) §§28-348 to 28-387 is the Nebraska Adult Protective Services Act.
Types of Adult Abuse, Neglect, and Exploitation

- Abuse
  - Physical Abuse, Unreasonable Confinement, Methamphetamine Exposure, Sexual Abuse, and Sexual Exploitation
- Neglect
  - Food, clothing/hygiene, shelter/environment, Medical/behavioral healthcare, proper supervision/elopeement
- Self-neglect
  - Food, clothing/hygiene, shelter/environment, Medical/behavioral healthcare, Lack of necessary supervision/wandering
- Exploitation
  - Financial, property

Emotional and verbal assault are not specifically classified as abuse in Nebraska.
Abuse

Neb. Rev. Stat. §28-351

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.

The presence of any of the signs (outlined in the next few slides) does not automatically mean a person is being abused, neglected, or exploited, only that it could be happening.
**Signs of Physical Injury**

Damage to bodily tissue caused by nontherapeutic conduct (fractures, bruises, lacerations, etc.) that causes pain, illness, or impairment of function.

**Signs include:**

- Bruises (especially in areas where not usually found, such as under the arms or on lower back);
- Broken bones;
- Scrapes;
- Burns;
- Open wounds, cuts, or punctures;
- Untreated injuries; or
- Injuries in various stages of healing.

Although these are typical indicators of abuse, many of these can occur without abuse, especially when the participant has other underlying physical or medical conditions.
Signs of Unreasonable Confinement


Confinement which intentionally causes physical injury to a vulnerable adult or false imprisonment, such as knowing restraint or abduction under terrorizing circumstances and with the intent to hold in a condition of involuntary servitude or restraint without legal authority.

**Signs include:**

- 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, or isolated; or
- Over-medicated or under-medicated.
Signs of Cruel Punishment

Punishment which intentionally causes physical injury.
The signs of cruel punishment mirror the signs of physical injury but can also include:

• Outward fear of making a mistake;
• Apparent fear of a caregiver; or
• Expressions of fear of being left alone with a caregiver.
Signs of Sexual Abuse


Sexual penetration or sexual contact without the consent of the victim and knowledge that the victim was incapable of resisting or appraising the nature of their conduct.

Signs include:

- Bruises, cuts, bleeding, or welts around the breasts or genital area;
- Unexplained sexual diseases or genital infection;
- Unexplained vaginal or anal bleeding;
- Unexplained pregnancy; or
- Torn, stained, or bloody undergarments.
Signs of Sexual Exploitation

Neb. Rev. Stat. §28-311.08

Known intrusion; viewing or filming in a state of undress without his/her consent or knowledge; causing, allowing, permitting, inflicting, or encouraging a vulnerable adult to engage in voyeurism, exhibitionism, prostitution, or in lewd, obscene, or pornographic photographing, filming or depiction of the vulnerable adult.

Signs include:

- Reports of individuals trading sexual favors for items (such as cell phones, money, food);
- Unknown whereabouts for long periods of time;
- Photos in a state of undress; or
- Unexplained new possessions.
Neglect and Self-Neglect

Neb. Rev. Stat. §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.

_Essential services_: services necessary to safeguard the person or property of a vulnerable adult. Such services include, but are not be limited to, sufficient and appropriate food and clothing, temperate and sanitary shelter, treatment for physical needs, and proper supervision.
Signs of Neglect and Self-Neglect

- Poor hygiene
- Paleness, or sunken eyes or cheeks
- Extreme weight loss or weight gain
- Lack of glasses, hearing aids, dentures, prosthetic devices, etc.
- Skin disorder or rashes
- Not enough necessary supervision or wandering
- Dehydration – lack of food and water
- Untreated bed sores
- Untreated injuries or medical problems
- Decaying teeth, long toenails
- Hoarding behavior
- Poor housekeeping
- Not enough clothing or shelter
- Lack of prescribed medication

Inadequate Supervision: particularly when caring for someone with a dementia, the person is abandoned or left unattended for long periods or locked in a house without supervision.
Exploitation

**Neb. Rev. Stat. §28-358**

The 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 by means of:

- Undue Influence;
- Deception;
- Extortion,
- Intimidation,
- Force or threat of force,
- Isolation,
- Any unlawful means, or
- 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.
Exploitation Complexities

• When exploitation is mentioned, stealing money is what generally comes to mind; however, there are other concerns in this category.
  • Any property can be exploited, especially things like jewelry and medications.

• Exploitation is a complex and difficult concern.
  • Exploitation can be difficult to pin down due to the often complex dynamics between perpetrator and victim.
  • The victim may not see the exploitation, but rather think they are gifting or “being nice.”
  • When a perpetrator is not known to the victim, they are often out-of-state or overseas.

• Exploitation often co-occurs with other types of abuse and neglect.
  • Perpetrators often use abuse or neglect to obtain their primary goal of the assets of a vulnerable adult.
  • Perpetrators often have the element of intent, regardless of their knowledge of the legality.
Fiduciary Duty

• Fiduciary duty is a legal term describing a relationship between two people where one person (the fiduciary) is responsible to act only in the best interest of the other.*
• A fiduciary is often in charge of another person’s money, property, or other assets.
• A fiduciary must make decisions based on what the person wants/desires/needs, and is in their best interest.

*https://www.investopedia.com/ask/answers/042915/what-are-some-examples-fiduciary-duty.asp
Characteristics of People who Exploit Vulnerable Adults

- Opportunists
- Predators
- May believe they are entitled to take the victim’s assets
- Two categories:
  - People unknown to the victim
  - People known to the victim
Exploitation Examples: Person Not Known to Victim

- Identity theft
  - Uses personal information to commit theft or fraud
- Sweetheart swindles and fortune-telling schemes
  - Uses loneliness and the idea something is missing in the victim’s life to exploit
- Predatory lending
  - Lending practices that take advantage of vulnerable borrowers
- Sweepstakes/lottery scams
  - Must pay taxes/fees up front to collect “winnings”
- Confidence crimes
  - Uses deception to gain another’s confidence
    - Charity scams
    - Home repair scams
    - Telemarketing scams
Exploitation Examples: Person Known to Victim

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

• Unusual banking and/or credit card activity (especially if it does not match the vulnerable adult’s abilities and history).
• Additional people who are allowed to sign on bank accounts.
• Sudden changes in a will or estate plan.
• Disappearance of money and/or valuable possessions/property.
• Recent transfers of property.
Avoiding Exploitation

• Many people wonder about gifts from an elderly family member or friend. Can you take a true gift from an elderly family member or friend without worrying about exploitation?

• The qualified answer is yes, however there are some things to take into consideration:
  • Is this “gifting” out of the ordinary for this person?
  • Why is the person giving this to you?
  • Does the giver appear to be vulnerable to persuasion or coercion?
  • What are the giver’s motivations?
  • Does the gift seem particularly extravagant?
  • Does the giver appear to be of sound mind?
  • Does the giver understand what he/she is doing?
Things to Remember when Working with Adults

• Adults have the right to be safe.
• Adults have all their civil and constitutional rights, unless some of these rights have been restricted by court action.
• Adults have the right to make decisions about their lives unless a court has determined they cannot.
• Respect the adult’s right to keep personal information confidential.
• Honor the right of adults to receive information about their choices and options in a way they can understand.
• Adults have the right to accept or refuse services.
• Seek informed consent from the adult before providing services.

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Things to Remember when Working with Adults

- Adults have the right to live the way they want to as long as it is not hurting anyone, even when it is not considered “normal.”
- Avoid imposing personal values on others.
- Recognize individual differences such as cultural, historical and personal values.
- Use the least restrictive services first.
- Involve the adult as much as possible in developing his/her service plan.
- Focus on case planning that maximizes the adult’s independence and choice to the greatest extent possible.

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Things to Remember when Working with Adults

• Use informal support systems first when this is in the best interest of the adult.
• Maintain clear and appropriate professional boundaries.
• When an adult does not clearly say what he/she wants, the team should plan services in the adult’s best interest.
• The interests of the adult are the first concern of any intervention.
• Do no harm.
• Inadequate or inappropriate intervention may be worse than no intervention.
Nebraska Mandatory Reporting Requirements
Mandatory Reporting Laws

• Mandatory reporting laws are designed to help protect people who may not be able to protect themselves.

• Explain your reporting requirements to your participants during your initial interactions with them so they fully understand their options for assistance.

• Regularly reviewing your role as a mandatory reporter with the participants you serve and/or their guardians is very important.

• Participants and guardians must be aware that, though you are required to maintain confidentiality, you are also required to report any suspected abuse, neglect, or exploitation.
Mandatory Reporters for Child Abuse and Neglect

Neb. Rev. Stat. §28-711

- Physicians (doctors);
- Medical institution;
- Nurses;
- School employees;
- Social workers;
- Inspector general; or
- Any other person.

In other words: EVERYBODY in Nebraska is a mandatory reporter of child maltreatment.
Mandatory Reporters for Adult Abuse and Neglect


- Physicians
- Psychologists
- Physician assistants
- Nurses
- Nurse assistants
- Any other medical professionals
- Developmental disabilities professionals
- Mental health professionals
- Law enforcement personnel
- Caregivers

- Employees of caregivers
- Operators or employees of sheltered workshops
- Owners, operators, or employees of facilities licensed by DHHS
- Any other human services professional or paraprofessional
- Others may make a report, but are not mandatory reporters
Mandatory Reporting

When any of the listed mandatory reporters:

- Have reasonable cause to believe that a child or vulnerable adult has been subjected to abuse, neglect, or exploitation or
- Observe a child or vulnerable adult being subjected to conditions or circumstances which reasonably would result in abuse, neglect, or exploitation,

He/she must report the incident, make a report to the appropriate law enforcement agency, or report to DHHS.

You do not have to prove there is abuse before you call!
HIPAA Reporting Allowance

- The Health Insurance Portability and Accountability Act (HIPAA) permits a covered entity to release information to an appropriate governmental agency authorized by law to receive reports of adult abuse, neglect, and/or exploitation.
- A person may report protected health information about a participant when they reasonably believe abuse, neglect, or exploitation has occurred. This report can go to a government authority, including a social service or protective services agency.

45 Code of Federal Regulations (C.F.R.) §164.512(c)(1)(iii):
(c) Standard: Disclosures about victims of abuse, neglect or domestic violence. (1) Permitted disclosures. Except for reports of child abuse or neglect permitted by paragraph (b)(1)(ii) of this section, 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: (i) To the extent the disclosure is required by law and the disclosure complies with and is limited to the relevant requirements of such law; (ii) If the individual agrees to the disclosure; or (iii) To the extent the disclosure is expressly authorized by statute or regulation.
How to Report

Call the Abuse & Neglect Hotline at:

1-800-652-1999

Or call local law enforcement
Why to Report

• Safety of a victim is the primary responsibility.
• It is not your role to prove that abuse, neglect, or exploitation is occurring or has occurred.
• When you question whether a report should be made, you should call the hotline to make a report and the hotline staff will determine if the report should be accepted for assessment based on the SDM ® Screening tool.
What to Report

- The name, address, and age of the victim;
- The name and address of the caregiver, if applicable;
- The nature and extent of the alleged abuse or circumstances;
- Any evidence of previous abuse;
- Any other information that would be helpful in figuring out the cause of alleged abuse; and
- The identity of the person who may have committed the acts, if known.
Failure to Report

- As a mandatory reporter in Nebraska, no one can stop you from filing a report.
- Any person who willfully fails to make any report required by the Adult or Child Protective Services Acts may be guilty of a Class III misdemeanor.
- The maximum penalty for not reporting is:
  - 3 months imprisonment;
  - $500 fine; or
  - Both.
Mandatory Reporter Protections

• As a mandatory reporter, you are protected from being sued or having charges brought against you for making a report or cooperating with an investigation as long as the report is made in good faith.

• As a mandatory reporter, your identity is protected and cannot be released outside DHHS except to certain people, including law enforcement, county attorney, attorney general, or by court order.
What Happens When You Report?

• An intake worker at the hotline screens the information to see if the law allows CPS or APS to investigate.
• When the report meets the screening criteria, it is assigned to a local CPS or APS worker.
• The CPS or APS worker will investigate the report.
• Typically the reporter is not notified of the outcome.
Preventing Abuse and Neglect and Knowing your Resources
Child and Vulnerable Adult Abuse Prevention

• All community members must be involved to prevent child and vulnerable adult abuse, including recognizing it and taking action when you think you see it.

• Get to know:
  • Signs 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.
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_r98wCFYkvgQodhJ8FSQ

• State Unit on Aging
  http://dhhs.ne.gov/Pages/Aging.aspx

• Division of Developmental Disabilities
  http://dhhs.ne.gov/Pages/Developmental-Disabilities.aspx

• Adult Protective Services
  http://dhhs.ne.gov/Pages/Adult-Protective-Services.aspx

• National Adult Protective Services Association (NAPSA)
  http://www.napsa-now.org

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Certificate of Completion

• To get your certificate of completion, click the link below.
• By clicking the link and filling out the certificate, you are attesting that you have read and understand this presentation.
• Click for your certificate of completion.
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