

Child and Vulnerable Adult Abuse, Neglect, and Exploitation

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Key Points

- Child abuse and neglect
- Vulnerable adult abuse, neglect, and exploitation
- Types and indicators of abuse, neglect, and exploitation
- Nebraska mandatory reporting law
- Things to remember when working with adults
- Maltreatment prevention

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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.
- The allegation must also meet the definitions of abuse or neglect found in statute.
- Community referrals, 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**.
- 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.

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Child Abuse and Neglect: The Basics

- Who are these victims?
- Who commits these acts?
- What are the types of child abuse and neglect?

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Who are the Victims?

- In Nebraska, victims 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.*

**Sullivan PM, Knutson JF. Maltreatment and disabilities: a population-based epidemiologic study. Child Abuse Negl. 2000;24 :1257– 1273*

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Who Commits These Acts?

- Abusers can have any relationship to the victim.
- Most times, the abuser is a person whom the victim knows, depends on, and trusts.
- Abusers can also be other adults in a position of trust: clergy, coaches, neighbors, etc.

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Types of Child Abuse/Neglect

Abuse

Can include (but is not limited to): physical abuse, unreasonable use of confinement/restraints, cruel punishment, or emotional abuse

Neglect

Can include (but is not limited to): physical neglect, abandonment, educational neglect, emotional neglect, domestic violence, or methamphetamine/heroin use involving a parent/custodian

Sexual Concerns

Can include (but is not limited to): sexual abuse, sexual exploitation, and sex trafficking

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Adult Abuse and Neglect

- In Nebraska, the victim must be considered a “Vulnerable Adult” before State Adult Protective Services (APS) can intervene.
- In many cases, police and other sources may intervene.

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Who is a Vulnerable Adult?

Nebraska Revised Statute §28-371 Revised 04/2016—LB 934

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

In Nebraska, any person found to be eligible for disabilities programs such as Developmental Disabilities, Aged and Disabled Waiver, and Traumatic Brain Injury [TBI] Waiver, is automatically considered to be a vulnerable adult.

Therefore, all of the adult individuals we work with in DDD are considered Vulnerable Adults

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Vulnerable Adult Abuse and Neglect: The Basics

- Who are victims?
- Who commits these acts?
- What are the types of vulnerable adult abuse and neglect?

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Who are the Victims?

- In Nebraska, victims can be any person 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.

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Who Commits These Acts?

- Abusers can have any relationship to the victim.
- Often times, the abuser is a person whom the victim knows, depends on, and trusts.
- There can be instances of the victim not knowing the abuser, and those are generally financial exploitation cases (scams) or physical abuse (stranger rape, robberies, etc.).
- Boyfriends/girlfriends/spouses, facility staff, guardians, conservators, clergy, bank officers, and other persons in “authority” positions can also commit these acts.

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Risk Factors for Abuse, Neglect, and Exploitation

Abuser

- 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 other cognitive impairment
- Aggressive behaviors (physical or psychological)
- Physical impairment or disability (need assistance with things like bathing, cooking, cleaning, etc.)
- Social isolation

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Types of Adult Abuse, Neglect, and Exploitation

- Abuse
- Neglect
- Self-neglect
- Exploitation

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

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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;
- Cruel punishment;
- Sexual abuse; or
- Sexual exploitation

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Signs of Abuse

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

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Specific Signs of Unreasonable Confinement

- 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

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Specific Signs of Sexual Abuse

- Bruises, cuts, bleeding, or welts around the breasts or genital area
- Unexplained sexual diseases or genital infection
- Unexplained vaginal or anal bleeding
- Unexplained pregnancy
- Torn, stained, or bloody undergarments

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Specific Signs of Sexual Exploitation

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

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

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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

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Exploitation

Nebraska Revised Statute §28-358

Revised 04/2016—LB 934

Exploitation is defined as: 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,
- 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.

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Fiduciary Duty

- Fiduciary duty is a legal term that describes 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>

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Characteristics of People who Exploit Vulnerable Adults

- Opportunists
- Predators
- May believe they are entitled to take the victim's assets
- Fall into two categories:
 - Persons unknown to the victim
 - Persons known to the victim

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Exploitation Examples - Person Not Known to Victim

- Identity theft
 - Uses personal information to commit theft or fraud
- Sweetheart swindles & fortune-telling schemes
 - Uses loneliness and the idea that 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

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Exploitation Examples - Person 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 abuser "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.

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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

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Mandatory Reporting

- Mandatory reporting laws are designed to help protect persons who may not be able to protect themselves.
- Regularly reviewing your role as a mandatory reporter with the individuals you serve and/or their guardians is very important.
- Individuals 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.

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Who are Mandatory Reporters for CHILD Abuse and Neglect?

Nebraska Revised Statute 28-711

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

In other words, this means EVERYBODY in the state of Nebraska is a mandatory reporter of child maltreatment.

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Who are Mandatory Reporters for ADULT Abuse and Neglect?

Nebraska Revised Statute 28-372

- Physicians
- Psychologists
- Physician assistants
- Nurses
- Nurse assistants
- Any other medical professionals
- Developmental disability 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 observes such child or adult being subjected to conditions or circumstances which *reasonably would result in abuse, neglect, or exploitation*,
He or she shall report the incident or cause a report to be made to the appropriate law enforcement agency or to the department.

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

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Where to Make a Report

Call the Adult & Child Abuse & Neglect Hotline at:

1-800-652-1999

Or call local
law enforcement

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Mandatory Reporting

- Safety of victims is the primary responsibility.
- It is not your role to prove that abuse, neglect, or exploitation is occurring or has occurred.
- If you question whether a report should be made, you may call the hotline and discuss it with the staff.

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What to Report

- The name, address, and age of the victim
- The name and address of caregivers (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
- The identity of the person who may have committed the acts, if known

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Note Regarding HIPAA

- A person may report protected health information about an individual if 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.
- See 45 C.F.R. §164.512 (c) (1) (iii).

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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
 - Maximum penalty of:
 - 3 months imprisonment
 - \$500 fine
 - Or both

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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.
- Your identity is protected as a mandatory reporter and cannot be released outside of DHHS except to certain people (law enforcement, county attorney, attorney general, or by court order)

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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.
- If the report meets the screening criteria, it is assigned to a local CPS or APS worker.

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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 live the way they want to as long as it isn't hurting anyone, even if it isn't considered "normal."
- Adults have the right to make decisions about their lives unless it has been found by a court that they cannot.
- Adults have the right to accept or refuse services.

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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 it is identified.
- 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

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More information about Child Abuse/Neglect

- More information about child abuse/neglect can be found in the following:
- Child Protective Services Act
 - Neb. Rev. Stat. §§28-710 to 28-727
- Regulations:
 - 390 Nebraska Administrative Code
 - 395 Nebraska Administrative Code
- CFS Home Page
 - <http://dhhs.ne.gov/Pages/Child-Welfare.aspx>

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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

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Resources

- 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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- ▶ In order to obtain your certificate of completion, please click the following link. By clicking the link and filling out the certificate, you are attesting that you have read and understand this presentation.
- ▶ Click [HERE](#) for your certificate of completion.

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Home and Community-Based Services

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dhhs.ne.gov

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