



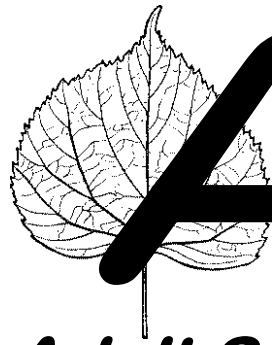
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ASPN

Adult Services Practice Notes

Dedicated to providing information on excellent family-centered practice with adults and their families.

Combating Abuse and Neglect of Adults with Disabilities

*Laura S. Cockman, Adult Protective Services Consultant
NC Division of Aging and Adult Services*

Pretend for a moment you are a volunteer for a local home-delivered meals agency in Any County, NC. One of the people you deliver meals to is Mr. Alfred Jones, 74, who has had a stroke that left him unable to communicate. He is bedridden and totally dependent on his wife, Mary Jones, who has been caring for him at home, although her rheumatoid arthritis has made this increasingly difficult. You have noticed a strong smell of urine in the home recently, and Mr. Jones seems to have lost weight. You don't want to "get Mrs. Jones in trouble," because she is "doing her best." You take another look at Mr. Jones and realize that he is less responsive to you than he was several weeks ago. What do you do? Should you call Adult Protective Services? Would calling and reporting your concerns be a violation of the confidentiality agreement you signed when you started volunteering?

North Carolina General Statutes require that anyone who suspects that a disabled adult is in need of protection report that information to the local Department of Social Services (DSS). No one can keep you from making an Adult Protective Services (APS) report if you have concerns about an adult, and in fact, the statute *requires* you to report this information.

It is important to realize that you do not have to know for certain that the person is being mistreated, you only have to suspect it. It is up to the DSS to determine that. You may make a re-

In this issue, our example focuses on neglect by a caregiver in the community, but the law encompasses self-neglect, which we wrote about in 1999 (http://sww.unc.edu/cares/aspn/aspn2_1.pdf), as well as physical and emotional mistreatment. In the Spring issue, we'll look more closely at exploitation.

NORTH CAROLINA GENERAL
STATUTES, ARTICLE 6.
PROTECTION OF THE ABUSED,
NEGLECTED OR EXPLOITED
DISABLED ADULT ACT.

(EXCERPTS)

§ 108A-101. Definitions

...

(e) A "disabled adult" [18 years or older] shall be "in need of protective services" if that person, due to his physical or mental incapacity, is unable to perform or obtain for himself essential services and if that person is without able, responsible, and willing persons to perform or obtain for hi[m] essential services.

§ 108A-102. Duty to report . . .

(a) Any person having reasonable cause to believe that a disabled adult is in need of protective services shall report such information to the director [of the County Department of Social Services or his agent].

port orally or in writing. You may remain anonymous, but the law protects your confidentiality with a few exceptions: DSS may share your name with the district attorney or local law enforcement officials and with the Division of Facility Services, if the person is living in a licensed facility. If the perpetrator were later prosecuted, a judge could also order your name to be revealed in court proceedings. Even so, you are immune from liability if you made the report in good faith—that is, the information you provided was true to the best of your knowledge.

What happens to the information when you make an APS report? How long does the APS worker have to make a decision?

If a report is accepted for APS evaluation, it means that the allegations meet the three screening criteria:

- ♦ the person is an adult (18 years or older) incapacitated by disability
- ♦ the person is the victim of abuse, neglect, or exploitation
- ♦ the person is unable to act in his or her own behalf and does not have another person willing, able, and responsible to act for him or her.

If all three criteria are met, the DSS assigns the case to an APS social worker. APS workers have up to 72 hours to make a visit to the person, depending on the degree of risk, but the initial visit for most APS reports happens within a day, and often on the day the report is made.

All reports accepted for evaluation require a face-to-face visit from the social worker. During this visit, the worker will begin to evaluate the adult in six functional areas: available social support, physical health,

mental health, financial circumstances, ability to carry out personal care activities and manage in the home setting (ADLs and IADLs), as well as the safety of the home setting itself. APS workers often make several visits, to observe the person at different times of the day and make an accurate assessment of his or her functional abilities. They have from 30 to 45 days to complete the evaluation, depending on the type of mistreatment alleged. They also must contact collaterals—that is, people whom they think may have information pertinent to the person's circumstances. These might include neighbors, physicians, family members, and volunteers or other community providers who go into the person's home. As the reporter, you might be among them. These perspectives will be used along with workers' observations to determine if mistreatment has occurred and whether DSS needs to provide protective services.

In Mr. Jones's case, the APS worker might determine that he is being neglected by his caregiver. Although Mrs. Jones is trying her best to help her husband, she is unable to keep him safe owing to her own physical frailties. Once a determination has been made, the APS worker and colleagues at the agency decide if there is a continued need for social services to protect him from mistreatment. If there is a need for DSS services, the APS worker has to make a decision about Mr. Jones's capacity to consent to services.

Having capacity to consent means a person has the ability to understand the consequences of the decisions he or she makes. If the person has capacity, the worker will ask the person if he or she would like assistance from DSS. Adults have the right to decide that even though their situation is dangerous to them, they do not want protective services. When that happens, the APS worker must close the case and let the person know that he or she can call DSS for assistance at any time.

If the person does not understand the consequences of decisions, the APS worker will determine that he or she lacks capacity to consent. If the person does not have a legal guardian or someone with durable power of attorney to consent to or decline services, the APS worker must go to court to get authorization to provide the needed services. The worker can never force a client to agree to services, and the principles of family-centered practice that underlie DSS casework support clients' autonomy and independence. For the record, of the 6,460 cases evaluated in fiscal year 2004–5, only 7% (449) required intervention by the court.

Will you know if DSS does help the person?

Once a case decision has been made by DSS, as reporter you would be notified. Although limited by the

Signs of Potential Abuse

For the care recipient

- ♦ Burns, especially in unusual locations or looking like an injury from a cigarette or iron
- ♦ Bruises, on the torso, inner arm or thigh or in several stages of healing
- ♦ Lacerations, welts
- ♦ Contractures, which might indicate confinement
- ♦ Unattended medical needs (bed sores, sexually transmitted diseases, fractures), poor dental care, lack of needed prosthetics
- ♦ Poor hygiene, inappropriate clothing
- ♦ Malnourishment or dehydration
- ♦ Withdrawal from normal activities
- ♦ Change in alertness or signs of depression
- ♦ Lack of medicine or too much medicine
- ♦ Strained or tense relationships with the caregiver

Source: NCEA and NC DAAS

client's right to confidentiality, the APS worker can reveal that a visit has been made, whether the need for protective services was *substantiated* (that is, the person met all three criteria), and if protective services will be provided.

How long does DSS stay involved? Do they just put services in place and then close the case? Do they put people in institutions?

Adult Protective Services is intended to be provided short term. APS cases usually stay open 90 days or less. The length of time the case stays open depends on a variety of factors, including comprehensiveness of the service plan, availability of formal services, informal support from family and friends, and what services the person agrees to receive.

When a case is closed for APS or not substantiated—or screened out to begin with—DSS workers will generally outline what other assistance is available through the agency or help the person identify and obtain assistance elsewhere in the community. Keeping in mind that DSS has an obligation to look for the least restrictive intervention possible, the worker would probably explore with Mr. and Mrs. Jones both in-home services and assisted living or nursing care as possible ways of helping them both. In North Carolina for fiscal year 2004–5, the most common protective interventions were in-home aide services, medical/health care services, and placement services.

Are abuse, neglect, and exploitation against the law? How come nothing ever seems to happen to people who hurt disabled adults?

Abuse, neglect, and exploitation of disabled adults can be prosecuted as felonies in North Carolina. If the APS social worker confirms abuse, neglect, or exploitation, the DSS director must notify the local district attorney or law enforcement agency, who have the responsibility to prosecute the perpetrators of crime. Will Mrs. Jones be prosecuted? Probably not, unless she has neglected Mr. Jones expressly to cause him harm or knowingly and purposefully failed to provide him with the care he needed.

Why are people who mistreat disabled adults not prosecuted more frequently? It's a complicated problem. First, maltreatment of disabled adults is underreported. The National Elder Abuse Incidence Study (NEAIS, 1998) used a variety of means to estimate the number of adults age 60 and older who were abused in 1996. A direct survey of older adults in the community revealed that almost 500,000 nationally said they had been victims of abuse or neglect, but only about 74,000 (16%) were reported to and sub-

stantiated by APS. Second, court proceedings that focus on some other issue—guardianship, power of attorney, or domestic violence—may mask the actual number of prosecutions (Uekert, 2005) and may be of more benefit to the adult. Finally, there is the problem of the victim's participation in the prosecution. If the perpetrator is a family member, the victim may be unwilling to testify—or unable, because of mental disability, illness, or death (Morgan and Scott, 2003).

Several sources note, though, that the presence of multidisciplinary teams (MDTs) in communities has raised the rate of prosecutions dramatically, and perhaps more important, they can help keep adults with disabilities safer, both through prevention and by applying community resources effectively when abuse and neglect occur.

What's an MDT? Should we have one here? Should my organization participate?

Several counties in North Carolina have MDTs, which include representatives from community organizations that come in contact with adults with disabilities and their caregivers. In addition to APS, member organizations and individuals might include DSS income maintenance and Social Security workers, aging agency personnel, the local long-term care ombudsman, medical professionals, pharmacists, home health agencies, mental health providers, hospital discharge planners, the district attorney, bank officials, domestic violence and victim advocacy groups, clergy, animal control personnel (because people who abuse people often abuse animals, too), public utility representatives, representatives from long-term care facilities, health department personnel, veterans' services and groups, public housing managers, emergency services personnel, and local police. Once confidentiality issues are resolved, team members can bring cases to the regular meetings, and often several of the organizations present discover that they are already involved with the individual or family. Together the team can develop strategies for reducing the risk and not work at cross purposes.

The protection of disabled adults works best as a shared community responsibility. In this state, as well as nationally, most substantiated cases of maltreatment were reported by family members, in-home and out-of-home service providers, friends and neighbors, and the police. It is up to each of us to work in our own community to help develop multidisciplinary teams, increase public awareness of mistreatment of disabled adults as a community problem, and publicize the resources and agencies that assist vulnerable adults.

Continuing Professional Training for Spring 2006

For descriptions of these events and details on how to register, go to <http://ssw.unc.edu/cares/trnall.htm>. For online registration, go to <http://ncswtrain.org>

Applications in Family-Centered Practice with Adults, registration fee, \$20.

- ♦ Lumberton, February 9
- ♦ Greensboro, May 18

Developing Effective Helping Relationships, \$35

- ♦ New Hanover County DSS, March 29–30

Effective Social Work Practice in Adult Services: A Core Curriculum, \$50

- ♦ Forsyth County DSS, January 10–12 and 24–26
- ♦ Cumberland County DSS, April 4–6 and 18–20

Effective Supervision and Management in Adult Services, \$25 per module

- ♦ Module 1, Buncombe County DSS, April 25–26
- ♦ Module 3, Wake Commons, Raleigh, February 21–22,
- ♦ Module 6, Craven County DSS, March 22–23

Working with Older Adults and Their Families, \$40

- ♦ Pitt County Mental Health Center, May 3–4

Geriatric Mental Health, Registration is through Coastal AHEC.

- ♦ Wilmington, May 15–16 and June 12–13

Working with Clients with Serious Mental Illness: The DSS Perspective, \$35

- ♦ Pasquotank County DSS, May 11–12

Advanced Topics

Beginning with the End in Mind: Refining Your Skills in Termination, \$20

- ♦ Columbus County DSS, May 9

Substance Use and Older Adults, \$20

- ♦ Mecklenburg County DSS, January 5
- ♦ Wake Commons, Raleigh, June 1

Ethics in Everyday Practice, \$20

- ♦ Harnett County DSS, March 15

Working with Clients with Cognitive Disabilities, \$20

- ♦ Lumberton, February 8
- ♦ Greensboro, May 17

Resources on Mistreatment of Disabled Adults

National Center on Elder Abuse, <http://www.elderabusecenter.org/default.cfm>

National Elder Abuse Incidence Study, 1998, http://www.aoa.gov/eldfam/Elder_Rights/Elder_Abuse/ABuseReport_Full.pdf

Bonnie, Richard J., and Robert B. Wallace, eds. 2003. *Elder mistreatment: Abuse, neglect, and exploitation in an aging America*. Edited by N. R. Council. Washington, D.C.: National Academies Press. <http://www.nap.edu/books/0309084342/html/>

Morgan, Sean P., and Jason M. Scott. 2003. *Prosecution of elder abuse, neglect, & exploitation: Criminal liability, due process, and hearsay*, http://www.ndaa-apri.org/pdf/elder_abuse_web.pdf

Payne, Brian K. 2005. *Crime and elder abuse: An integrated perspective*. 2 ed. Springfield, Illinois: Charles C. Thomas.

Uekert, B. K. 2005. National trends in state courts: Elder abuse and neglect. http://www.ncsconline.org/D_KIS/Trends/2005/EldAbuNeglect.html

Visit the CARES web site at <http://ssw.unc.edu/cares/cares.htm> for on-line copies of this newsletter, updated calendar of workshops, links to background materials for events, and much more.

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The aspen is perhaps the world's largest organism. Although some aspen forests cover acres and seem to be composed of individuals in all stages of life, they share a common root system.

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