Zero Tolerance: A Training Curriculum for Direct Care Providers to Identify, Report, and Prevent Abuse Against Persons with Intellectual/Developmental Disabilities

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Violence against persons with intellectual and/or developmental disabilities (IDD) has been documented in the United States for decades. Sexual violence (a term encompassing sexual abuse, assault, or any other forced sexual act) has been of particular concern to the research community working with this population (1-3). Sundram, Benjamin, and Stack (4) reported incidents of sexual violence at the Bernard Fineson Developmental Center in New York in 1991:

“Martha, who is profoundly retarded, non-verbal and, according to the facility, lacks the capacity to consent to sexual activity, was involved in a rape or attempted rape. Martha was heard screaming in her bedroom; staff pushed aside her barricaded bedroom door to find her naked with a naked male resident. Two other male residents looked on. The residents were dispersed and Martha was helped to dress. She was given no medical follow-up, no incident report was filed, no investigation ensued and the police were not called. The unit log for the day noted ‘no incidents or problems’…”

Their report goes on to describe several other cases of sexual abuse, as well as deficiencies in investigations of these incidents, lack of adequacy in reviewing investigations of incidents by the Incident Review Committee, and no systems in place to ensure effective corrective actions (4). While this particular incident occurred in an institutional residential facility, persons with IDD living in community living arrangements, either independently or in group homes, are also at risk for sexual violence and other forms of exploitation:

“My sister-in-law…has intellectual disabilities. She has been sexually abused by her father, raped by a neighbor, beat up by her brothers…Raped by her brothers’ friends, verbally abused by brothers, financially abused by her brother and mother…the list could go on.” (3)
While it could be assumed that such a revelation in the lives of persons with IDD would spur massive corrective action to account for these problems, the abuse of persons with disabilities remains largely disproportionate compared to persons without disabilities. What is less likely to occur is the adequate training of staff, health care professionals, and caregivers who work with adults with IDD, whether these staff provide services in the community or in larger institutional settings. This paper addresses the problem of violence against adults with intellectual and developmental disabilities, with an emphasis on sexual violence against this population. Using a socio-ecological perspective, this paper will also provide a rationale for the use of the Zero Tolerance training curriculum in North Carolina, a course for direct care professionals working with adults with IDD.

Background

Before beginning to look at the prevalence data of abuse and sexual assault in persons with IDD, it is necessary to distinguish between a “developmental disability” and an “intellectual disability,” as these terms have different definitions. Additionally, the subtle distinctions between terms like “sexual violence,” “sexual assault”, and “sexual abuse”, as well as other definitions of violence against persons with IDD, also need to be explored.

A developmental disability (DD) is characterized as a chronic condition which results in functional limitations in three or more activities of daily living, such as bathing, dressing, eating, or toileting. North Carolina public law defines a developmental disability as occurring before age 22. (5, 6) Some well-known conditions considered to be developmental disabilities are cerebral palsy, Down syndrome, or an Autism Spectrum Disorder.

An intellectual disability (ID) is a condition characterized by significant limitations in both intellectual functioning (the mental capacity for learning, reasoning, and problem solving).
as well as adaptive behavior (the collection of conceptual, social, and practical skills for everyday living). This disability originates before the age of 18. (5)

Two important distinctions need to be addressed when discussing academic research on persons with intellectual and/or developmental disabilities. First, while “IDD” is often distinguished in the literature as one population of interest, intellectual and developmental disabilities are still two separate entities. A person with a developmental disability, such as cerebral palsy, may or may not also have an intellectual disability. (5). However, the common risk characteristics for sexual violence victimization are such that those with ID and DD are often included in similar studies, or grouped into one study population. Second, the terms intellectual and developmental disability are recent vernacular, and often older research studies referred to this group as “mentally retarded” or “mentally challenged”. While the term “mentally retarded” is still used for diagnosis in the medical community, most advocacy and direct service groups consider the term outdated, and prefer using “IDD” or “intellectual disability”. (5)

It is currently estimated that between 7 and 8 million Americans of all ages (2-3% of the total population) live with an intellectual disability. (7) Intellectual disabilities are currently 25 times more prevalent than deafness and 50 times more prevalent than blindness, and affect nearly 1 in 10 families across the United States. (7) Additionally, the range of cognitive functioning within intellectual disability is wide. This is often quantified by describing the ID as “mild”, “moderate”, or “severe or profound”. Approximately 80% of persons with ID have skill deficits in the mild range, meaning they usually have academic skills around the 6th grade learning level. Individuals with moderate ID, about 15% of this population, are able to learn and recognize words in context and use visual prompts. The remaining 5% with severe or profound ID need assistance with personal care and may have little or no communication (5, 8)
As previously stated, ID and DD are not mutually exclusive, and often those with ID will often experience a co-occurring condition of disability. Some physical complications that are often associated with ID include neuro-motor dysfunction (such as spasticity, weakness in the extremities, and movement disorders), cognitive impairment (lower intelligence, attention span, perception difficulties, and visual-spatial limitations), as well as sensory deficits. There can also be seizure, psychiatric, or behavioral co-occurring disorders. One study of co-occurring conditions found that 15-30% of persons with ID also experienced epilepsy, 10-33% experienced cerebral palsy, and 20-40% of persons with ID also had a mental health condition. The number of additional conditions and complications is also likely to increase with the severity of ID. Due to the presence of physical limitations in this population, the prevalence data presented in this paper will also include studies reviewing persons with physical disabilities and their risk for violence.

It is also imperative to understand the differences in definition for terms such as sexual violence, sexual abuse, abuse, caretaker, and so forth. North Carolina’s Protection of the Abused, Neglected, or Exploited Disabled Adult Act (6) has specific definitions for several of these terms, including “Abuse” – the willful infliction of physical pain, injury, or mental anguish, unreasonable confinement, or the willful deprivation by a caretaker of services which are necessary to maintain mental and physical health. This is a broad definition that can also include forced sexual acts, which often constitute the definition of “sexual abuse” or “sexual violence”. For the purposes of this paper, “abuse” will indicate any act of forced threat, as defined in the above statute, or as defined in specific research studies. Additionally, the terms “sexual abuse” and “sexual violence”, which both include forced sexual touching, attempted or completed sexual acts, or sexual coercion, may be used interchangeably throughout this paper.
Prevalence

It is difficult to ascertain exactly how often persons with IDD are victims of sexual abuse or other forms of abuse. Current prevalence studies are often limited to convenience samples and are community-based, making generalizability to the IDD population difficult. (11) Additionally, studies vary in their definitions of “disability”; often this includes persons with IDD, but sometimes due to methodological limitations, they are excluded from the general population of “disabled”. This is especially true for persons with moderate or severe IDD, who may be unable to answer survey questions without assistance. Along these same lines, persons with IDD who are living in institutional settings, such as hospitals or large treatment centers, are often excluded from community-based samples. (11) Some studies will include persons of all disability types, whether this is self-reported or determined by catchment area, while other studies will only include those with physical disabilities. (11) Similarly, the very definition of “violence” or “abuse” will vary among studies. Behaviors that are not often thought of as abusive, but are disability-specific (such as withholding medications, mobility equipment, or personal care services) are not always included in studies with disabled populations. Additionally, sexual violence may or may not be included in definitions of “physical violence”, “violence”, and “abuse”. (11, 12)

With these limitations in mind, the prevalence of violence, specifically sexual violence, against persons with IDD is disproportionately high. Tyiska in 1998 (1) estimated 68% to 83% of women with ID will be sexually assaulted in their lifetime. A 2011 literature review placed current prevalence data estimates in a much larger range, with 26% - 90% of women with disabilities experiencing some form of violence within their lifetime, with lifetime instances of sexual abuse up to 68.2%. (11) Men with ID often are excluded from prevalence studies, although
the few studies in which they are included point to an increased lifetime risk of sexual violence, completed rape, and past-year sexual violence compared to men without disabilities. (13) The same 2011 literature review found a range of 28.7% - 86.7% of men with disabilities experience some form of violence in their lifetime (11). Some disability organizations have also attempted to gain their own prevalence data. The Disability & Abuse Project conducted a national study of violence against persons with disabilities via an online survey in 2012. Out of over 7,000 respondents, approximately 20% identified as having a disability. Of those with a disability, 70% reported they had been victims of abuse, and 62.5% of these individuals identified as having an intellectual or developmental disability. In terms of sexual violence, 34.2% of persons with IDD reported they had experienced sexual violence in their lifetime.(14) However, it is important to keep in mind that an online survey will likely not include persons with moderate to severe IDD, as they will often need assistance completing the tasks associated with survey-taking. Lastly, it is important to note that while prevalence of abuse is higher than average, it is also more common for individuals with IDD to experience multiple incidences of abuse. One study estimated 49% of persons with DD will experience 10 or more sexually abusive incidents in their lifetime. (15)

In addition to disability type, the level of impairment can also place certain persons at higher risk for victimization. Data from the 1995-1996 National Violence Against Women Survey found that women with severe disability impairments (defined by self-report as the extent to which their disability interfered with daily activities) were four times more likely to be sexually assaulted within the past year than women with no reported disabilities. (16) There are also significant risks for those who use augmentative communication devices or have limited language. A 20-year longitudinal, community-based sample of women with speech or language
impairments found that those with language impairment were more likely to experience sexual assault (45.5% of the sample) than women without such impairments. (17)

In 2006, Martin and colleagues (18) conducted research with a community sample of women in North Carolina to examine the risk of being assaulted within the past year by disability status. Analyzing data from the North Carolina Behavioral Risk Factor Surveillance System (BRFSS), the prevalence of experiencing assault of some type (physical and/or sexual) within the past year was 3.1% for all women in the study. For women who identified has having some sort of disability, they were over than 4 times more likely to experience sexual assault in the past year compared to women without disabilities.(18) A similar study using BRFSS data also reported on the disability that can occur after violence has been experienced, reporting that North Carolina women who experienced violence in the past year were significantly more likely than other women to have poor physical health, poor mental health, and functional limitations.(19)

Despite the limitations in current research on violence against persons with IDD, it is important not to discredit the data that has been derived. While there is often difficulty in data collection, operational definitions, and study methodology, the presented information gives strong evidence of the high prevalence of violence in this population.

Risk for Victimization

How can this population experience such high rates of victimization? The IDD population is diverse, with varying levels of needs, services, and supports. Those with IDD can be part of formal support systems, such as group homes or adult day centers, but are still part of their community. Paradoxically, those with disabilities who are often over-protected and removed from larger social systems are placed at a higher risk for victimization than those living at their optimal independency. (20)
There are several characteristics that place those with disabilities, specifically those with IDD, at a greater risk for violence victimization. It is helpful to conceptualize these risks through the lens of the socio-ecological model. This model framework guides public health professionals to comprehensively evaluate a problem by examining domains where determinants for specific problems may be found. These domains are separated into the individual, community, and society level. (21)

*Individual/Family*

Individual factors include personal attributes as well as their immediate living environment, such as a family or residential group home. This “microsystem” is the center of the socio-ecological model. (22) Carlson (20) theorized some of the most common personal attributes that contribute to the heightened risk for victimization in individuals with IDD include high levels of dependency on others, lack of assertiveness, over-compliance behaviors, and low self-esteem, and a general lack of privacy. Hollomotz (22) theorized that other common characteristics include those associated with skills which enable an individual to defend themselves against sexual violence, such as knowledge about sex and sexuality, the ability to communicate and report sexual violence, the ability to distinguish sexual behaviors from personal care, and the social awareness to acknowledge sexually violating situations. There are also compounding attributes associated with physical disabilities, such as the inability to physically escape abuse (due to lack of transportation or inaccessible environments) or dependence on perpetrating caregivers for essential activities of daily living, such as eating or taking medications. (12) The attributes of an individual’s family or personal care attendants is also critical to analyze at this level of the socio-ecological model. For example, a history of victimization in one’s family of origin is correlated with higher rates of victimization among
children with IDD. (2) Additionally, some perpetrators of violence may have IDD themselves, or have been victimized by abuse.(2)

Community

While an individual approach to addressing sexual violence against this population is critical, protective factors against sexual violence victimization are built within and from social processes. The individual and family are situated within the community, or “mesosystem,” which consists of an individual’s social network outside their immediate environment. (20, 22) Risk factors present in this system include social isolation, or a lack of meaningful relationships with others in the community. For some individuals with IDD, this includes poor or non-existent relationships with their family of origin. (20) Social isolation and lack of relationship building is often an inadvertent effect of caregivers to protect those with IDD. This overprotection is often justified as being “in the best interest” of the individual, rather than teaching the skills necessary for independence, such as assertiveness, social interaction, and self-reliance. This reinforced dependency on caretakers contributes to the socialized vulnerability of this population. (20, 23)

Society

The wider society and cultural systems in which the individuals reside consist of the society, or “macrosystem”, of the socio-ecological model. Within this system lie the influences of ableism and sexism that often contribute to the marginalization and stigmatization of persons with IDD. Stereotypes and myths about disability, especially for those with cognitive deficits, are particularly prevalent. (2) These negative stereotypes often play into the risk factors present in the mesosystem – for instance, the idea that a person with IDD is “helpless” and “pitiful”, and/or “dangerous” and “diseased”, and thus must be protected or kept separate from society.(2) There are also significant stereotypes pertaining to the sexuality of those with IDD, especially women.
The false assumption that those with disabilities are asexual, hypersexual, dependent, or uninterested in relationships affects the way these individuals are taught about sexuality, healthy relationships, or sexual health (if this education is provided at all) in the microsystem. (12, 20, 24) Additionally, sex-role stereotyping common among all women is particularly harmful for women with IDD, especially conservative sex-role stereotypes that dictate women are passive, dependent, submissive, and home-bound. (20)

Characteristics of Perpetrators

Perpetrators of abuse against persons with IDD are often those who are in close relationships with these individuals, and most often those who are trusted and relied upon for caregiving. (27) A study on the design of an abuse and disability screening tool found that the most common disability-related abuse (identified as prevention from using assistive devices and/or refusal to help with personal care needs) was attributed equally to an intimate partner, a care provider, or a health professional. Physical and sexual abuse in the same study was most often committed by an intimate partner. (25) Longitudinal data from a community-based sample in Ireland on sexual abuse of persons with ID found in 118 confirmed cases of abuse, almost 25% of perpetrators of sexual abuse were relatives, and the most common location of abuse was the family home (37%), followed by day services (23%) and public places (20%). The same study found abuse by staff in 1 in 11 episodes of abuse in the study, which often took place within care-taking relationships. (26) Curry and colleagues (27) studied the development of an 8-point questionnaire to determine the types of abuse experienced by women with any kind of disability and the characteristics of their perpetrators. Perpetrators in this study were most likely to be someone on whom the person depended on for personal care, often exhibited alcohol or
drug abuse, was someone who had hurt others, would become jealous or angry, and was likely to control access to services, including health care, family, and friends.\(^{(27)}\)

**Prevention**

Given the prevalence of violence within the IDD population and the most common characteristics of perpetrators, recent research has begun to address preventing abuse before it begins, or eliminating it if it is present. Historically, most research on sexual violence prevention addresses prevention within the microsystem of an individual with IDD, which often includes education on sexual health and healthy relationships; however, these studies are often limited in that they often remain unevaluated or reflect promising practice rather than evidence-based practice.\(^{(28)}\) While individual education and awareness is an essential aspect of sexual abuse prevention, these programs are often delivered in a fast-paced, short-term and time-limited fashion, and often delivered by staff who have a limited understanding of the learning characteristics of persons with cognitive limitations.\(^{(23)}\)

The Centers for Disease Control and Prevention (CDC) has even recognized and made use of a model of nine principles of effective prevention efforts, which focus on engaging individuals and staff, being socio-culturally relevant, and being comprehensive.\(^{(29)}\) It is critical to address the mesosystem and macrosystem influences that create an environment entrenched in abuse. By including these outer systems of the socio-ecological model, prevention of abuse becomes a community problem with multiple invested partners, rather than an individually-focused issue.\(^{(23)}\)

One way to begin prevention interventions is to involve those most proximal to individuals with IDD, namely caregivers and direct care staff. Often, especially in environments of professionally-provided care services, direct support staff are unaware of the prevalence of sexual violence, or are uncomfortable with their ability to identify and report suspected abuse.
One survey of administrative staff at public and private facilities serving individuals with developmental disabilities indicated that these service providers lacked a basic knowledge of abuse and perpetrator characteristics. (30) Another study of social care staff and healthcare professionals found a similar sentiment: only 22.9% of staff had received any training in the area of abuse, while none of the healthcare staff had ever received training. (31) The lack of education among staff and caregivers can often produce barriers to reporting suspicions of or known instances of abuse. An informal survey of human service providers in Boston revealed that many service providers did not report due to the difficulty of a client being able to provide credible testimony in court. However, the same report found that most clients with disabilities who did report did not do so on their own; most often, a caretaker reported on their behalf, indicating the importance of caregiver awareness of abuse. (32)

Despite the lack of training that occurs for service providers and caregivers, it does not indicate a lack of interest in the topic or its importance. In conversation with C. Egan, MSW (August 2013) with the Developmental Disabilities Training Institute at the UNC School of Social Work in North Carolina, an unpublished informal survey of service providers was conducted in 2007 to determine interest in a training to address sexual assault of women with intellectual disabilities. Over 85% of the agency staff felt it would be “important” or “very important” to receive training centered on sexual assault, and over 81% felt it would be “important” or “very important” to receive training on preventing sexual assault. Despite the acknowledgement of the importance of this training topic, an overwhelming amount of agencies (91.5%) reported they did not currently offer any kind of similar training.

Appropriate training for direct service providers can be a critical asset for an agency and for staff development. Researchers from West Virginia University and the University of
Arkansas for Medical Sciences developed a training curriculum for direct service providers working with adults and children with developmental disabilities on sexual abuse prevention. Topics included the definition and identification of sexual abuse, relevant state laws on child and adult abuse, sexual abuse risk factors, HIV and AIDS information, and changing negative attitudes that can contribute to sexual abuse. Participants who attended the training showed a statistically significant increase in their overall knowledge of sexual abuse in post-test. (33)

Several studies of sexual violence recommend recognizing the risks associated with violence victimization and providing training to caregivers and staff on ways to identify ongoing abuse. These studies recommend that caregivers and staff be given educational materials or training to provide sexuality education to their clients or loved-ones. (26,33,34) Agencies should provide sexual abuse prevention training to their staff, tailor training to meet the needs of the audience (such as those with less work experience with IDD populations), and include a variety of assessments to determine behavior change, utilization of knowledge, and skills gained in the training. (33)

Zero Tolerance

The high prevalence of violence among those with IDD and the need for primary prevention efforts that are multi-systemic and involve direct care professionals points to a need for a comprehensive training program. Zero Tolerance is a training curriculum based out of the Agency for Persons with Disabilities in the state of Florida, and is one piece of the state’s Zero Tolerance Initiative. The initiative’s mission is to prevent the abuse, neglect, and exploitation against persons with DD living in the state. In personal communication with T. Rice of the Agency for Persons with Disabilities (July 2013), the initiative was launched in 2003 following a string of very public media stories surrounding sexual assault against persons with DD living in
state-regulated group homes. The initiative has since evolved to serve as the state agency’s aggressive and multi-pronged approach to dealing with neglect, abuse, and exploitation against individuals with DD, utilizing partnerships with service providers, family members, individuals with IDD, and other stakeholders.\(^{(35)}\)

One activity within the Zero Tolerance Initiative includes the Zero Tolerance Training Curriculum for direct service providers working in IDD group homes. The 4-hour training is standardized throughout the state of Florida, is mandatory, and provided prior to an employee’s placement in a group home. \(^{(35)}\) The training is divided into 6 modules:

1. Training overview
2. Defining abuse, neglect, and exploitation of persons with developmental disabilities
3. Exploring the issues (includes information on prevalence of abuse in this population)
4. Recognizing the signs and symptoms of abuse, neglect, and exploitation
5. Reporting requirements
6. Prevention and safety planning

Each module make use of current Florida state laws and regulations on the protection of adults and children with developmental disabilities, legal definitions of abuse, neglect, and exploitation, and reporting requirements. For the purposes of this paper, two modules (Module 2: Defining Abuse, Neglect, and Exploitation of Persons with Developmental Disabilities, and Module 5: Reporting Requirements) will be adapted for use in North Carolina, using current North Carolina statues regarding the protection of disabled adults and reporting requirements of suspected abuse, neglect, and exploitation. Refer to Appendices A and B for an example of these two modules of the Zero Tolerance facilitator’s and participant’s guide, as adapted for use in North Carolina.
While the Zero Tolerance training has been used throughout the state of Florida since its creation, it has yet to undergo outside evaluation or be labeled as an evidenced-based practice. However, due to its large-scale use and consistent revisions with accordance to state laws, it can certainly be considered a promising practice or best-practice intervention.

The use of this curriculum in the state of North Carolina is desirable. There is currently no mandatory, standardized training for detecting, reporting, or preventing abuse in the IDD population for those who work directly with these individuals. By addressing the root causes of violence against this population and providing direct care staff and caregivers the tools to identify and combat the problem of abuse, the unacceptable high rates of victimization can be eliminated.
Module 1—Defining Abuse, Neglect, and Exploitation of Persons with Intellectual/Developmental Disabilities*

Lesson Plan

Course
Zero Tolerance

Module
Module 1: Defining Abuse, Neglect, and Exploitation of Persons with Intellectual/Developmental Disabilities

Training Time
1 hour

Learning Objectives
After completing this module, participants will be able to:

- Define “caretaker”
- Define the five general types of caretaker abuse
- Define “abuse”, “neglect”, and “exploitation” according to N.C. State statutes
- Explain how power and control contribute to caretaker abuse

*Adapted from Florida Agency for Persons with Disabilities’ Zero Tolerance: Facilitator’s Guide Module 2
Instructional Strategies and Activities

What is Caretaker Abuse?

Say:
In this section you’ll learn what actions are considered abuse, neglect, and exploitation. You’ll also learn about some reasons why caretakers may abuse people with disabilities. Finally, you learn about how the need for power and control can contribute to abuse.

After completing this section you will be able to:
Define caretaker.
Define the five general types of caretaker abuse
Define abuse, neglect, and exploitation according to NC state law
Explain how power and control contribute to caretaker abuse

Ask:
Who is a caretaker? What types of people might care for persons with disabilities?

Activity:

Ask participants to write down their answers. After a few minutes, ask for responses and record participant answers on whiteboard. Indicate which caretakers are paid and which are unpaid (perhaps with “P” for Paid and “U” for Unpaid).

Discuss:
Discuss the list participants come up with. Compare to the list on the second page of Module 1.

Say:
Caretakers might be paid personal assistants, or they might be people who provide care for no pay. Unpaid caretakers might be, Family members such as a parent, spouse, sibling, or child, Close friends, Volunteers, or Neighbors

Others who might be paid and are involved in an individual’s care include Care Coordinators, Drivers, Doctors, Nurses, Teachers/ teacher’s aides, Social workers, Psychiatrists, Therapists, Counselors, Job coaches, Sign language interpreters, or Workers in hospitals and other institutions.

Ask: As you look at the different types of caretakers, what are some tasks that they perform?
Activity:
Ask participants to write down their answers. After a few minutes, ask for responses and record participant answers on whiteboard.

Discuss:
Discuss the list the participants come up with. Refer them to the third page of Module 1.

Say:
Caretakers are people who provide assistance with personal care tasks that include: Bathing, Dressing, Toileting, Transferring (moving from one place to another, such as a couch to a chair), Eating, Taking prescribed or over-the-counter medications or vitamins, Cooking, Cleaning, Running errands, Paying bills, or Providing transportation.

Transition:
Now we are going to discuss what actions constitute caretaker abuse. [Refer participants to page four of Module 1]

Say:
Caretaker abuse is the exertion of the caretaker’s will over the person with a disability. Caretaker abuse usually falls into one of five categories. When abuse is present, these categories of abuse frequently overlap.

Physical – hitting, pushing, hair pulling, kicking, biting, assault, inappropriate handling, overuse of restraints, over-medicating, inappropriate behavior modification, keeping the person awake, withholding or forcing the person to eat or take medications or beverages, attempted murder.

Sexual – verbal harassment; unwanted sexual touching of private parts; forced abortion, sterilization or pregnancy; unwanted display of sexual parts (pornography, exhibitionism); tricking or manipulating into sexual activity; sexual assault; rape.

Emotional and/or Verbal – verbal abuse focused on impairment; denial of right to make decisions; threats to harm individual, pet(s) or service animal(s), family or children; humiliation; isolating the person from friends and family; emotional neglect; name calling.

Exploitation – denial of access to or control of funds; misusing financial resources; stealing money and personal belongings.
Neglect – denial of food, clothing, shelter or transportation; not working assigned hours or not performing duties; mistreating or refusing to feed pet(s) or service animal(s); withholding medications, food, medically necessary treatment, assistive equipment or personal/medical care; leaving individuals alone without a way to call for help; leaving individuals in bed all day or not getting them dressed; leaving individuals in a car by themselves while the caretaker shops; leaving individuals on the toilet or in soiled undergarments for long periods of time.

Activity:

[Refer participants to page six of Module 1]

Say:

Now I’m going to describe several scenarios and I want you to write down which types of abuse appear to be present for each scenario.

1. Angela’s Job Coach screams at her when she doesn’t put the paper in the copy machine correctly.

2. Joe, who is twenty-eight and has mild intellectual disability and cerebral palsy, has had the same Care Coordinator – Julia, who is thirty – for the past year years. You have recently started providing physical therapy services to Joe. Joe tells you that Julia kisses him on the mouth when she comes into the house each morning. He tells you that he doesn’t need a massage from you because Julia gives him massages. You ask him where she massages him and he points to, among other areas, his buttocks.

3. Juan, twenty-three, has spina bifida. He has just completed college and is ready to get a job. His mom insists on keeping complete control of his finances, despite his requests to maintain his own finances.

4. Several times in the last month when you come on shift to take care of Sophie, you find that her diaper is very soggy and smelly. You’ve also noticed that on several occasions recently her clothes have not been changed from the day before.

5. Tom, who is a resident in a group home, tells you that he is hungry because he did not eat breakfast. When you ask him why he did not eat, he tells you that the group home manager told him that he was bad and could not eat breakfast.
Debrief

Answers:

1. Verbal abuse
2. Sexual abuse
3. Financial exploitation
4. Neglect
5. Physical abuse

Were there any answers that participants had questions about?

Say:

There are several different ways to legally define abuse, neglect, and exploitation of adults with disabilities. Notice how different laws in North Carolina define these terms and protect persons with disabilities in different settings.

North Carolina’s Protection of the Abused, Neglected or Exploited Disabled Adult Act defines “abuse”, “neglect” and “exploitation” of adults with disabilities. Let’s look at these different descriptions in the Participant’s Guide.

[Refer Participants to “Laws Regarding Abuse, Neglect, and Exploitation of Adults with Disabilities” in Module 1]

Say:

The word "abuse" means the willful infliction of physical pain, injury or mental anguish, unreasonable confinement, or the willful deprivation by a caretaker of services which are necessary to maintain mental and physical health.

The word "exploitation" means the illegal or improper use of a disabled adult or his resources for another's profit or advantage.

The word "neglect" refers to a disabled adult who is either living alone and not able to provide for himself or herself the services which are necessary to maintain the person's mental or physical health or is not receiving services from the person's caretaker.

Additionally, there are other laws that protect North Carolina adults with disabilities from physical abuse and sexual abuse/exploitation:

- Assaults on handicapped persons
- Patient abuse and neglect
- Domestic abuse, neglect, and exploitation of disabled or elder adults
Employees of residential care facilities are required by law to report suspected abuse, neglect, and exploitation, as well as protect their clients from harm, abuse, neglect or exploitation.

[Refer to page eleven of Module 1]

The Protection from Harm, Abuse, Neglect or Exploitation Act states:

1. Employees shall protect clients from harm, abuse, neglect and exploitation
2. Employees shall not subject a client to any sort of abuse or neglect
3. Goods or services shall not be sold to or purchased from a client except through established governing body policy.
4. Employees shall use only that degree of force necessary to repel or secure a violent and aggressive client and which is permitted by governing body policy.
5. Any violation by an employee of this Rule shall be grounds for dismissal of the employee

Residential Care Facilities themselves are mandated to create policies to protect their clients:

Policy on Rights Restrictions and Interventions:
The governing body shall develop and implement policy to assure that all instances of alleged or suspected abuse, neglect or exploitation of clients are reported to the County Department of Social Services.

North Carolina General Statues, Article 7A, describes Rape and Other Sex Offenses. This article provides protective language for persons with disabilities:

"Mentally disabled" means (i) a victim who suffers from mental retardation, or (ii) a victim who suffers from a mental disorder, either of which temporarily or permanently renders the victim substantially incapable of appraising the nature of his or her conduct, or of resisting the act of vaginal intercourse or a sexual act, or of communicating unwillingness to submit to the act of vaginal intercourse or a sexual act.

"Mentally incapacitated" means a victim who due to any act committed upon the victim is rendered substantially incapable of either appraising the nature of his or her conduct, or resisting the act of vaginal intercourse or a sexual act.

"Physically helpless" means (i) a victim who is unconscious; or (ii) a victim who is physically unable to resist an act of vaginal intercourse or a sexual act or communicate unwillingness to submit to an act of vaginal intercourse or a sexual act.

The state of North Carolina also has very specific legal definitions of sexual acts that are punishable by law:
"Sexual act" means cunnilingus, fellatio, analingus, or anal intercourse, but does not include vaginal intercourse. Sexual act also means the penetration, however slight, by any object into the genital or anal opening of another person's body; provided, that it shall be an affirmative defense that the penetration was for accepted medical purposes.

"Sexual contact" means (i) touching the sexual organ, anus, breast, groin, or buttocks of any person, (ii) a person touching another person with their own sexual organ, anus, breast, groin, or buttocks, or (iii) a person ejaculating, emitting, or placing semen, urine, or feces upon any part of another person.

The following are Rape and Other Sex Offenses that include protective language for persons with disabilities:

1. Second-degree rape
2. Second-degree sexual offense
3. Sexual battery

Each of these laws specifies it is unlawful to engage in these acts with a person: “Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know that the other person is mentally disabled, mentally incapacitated, or physically helpless.”

Activity:

Divide the class into at least two small groups. Ask the participants to develop scenarios of possible abuse, neglect, and/or exploitation in their Participant Guide. Refer the participants to the appropriate sections of Module 1 for the laws themselves.

Debrief:
Review each groups’ scenarios and read appropriate excerpts from the law to show how the statute correlates with their scenario.

Transition:
National statistics show that between twenty-six and ninety percent of individuals with intellectual/developmental disabilities will be the victims of abuse, neglect, or exploitation at some point during their lives (Hughes, et. al., 2011). Understanding the types and reasons for these crimes are the first steps in stopping them.

In the next section you’ll learn about how to report suspected abuse, neglect, or exploitation.
Module 2—Reporting Requirements*

Lesson Plan

Course
Zero Tolerance

Module
Module 2: Reporting Requirements

Training Time
30 minutes

Learning Objectives
After completing this module, participants will be able to:

- Explain how to report suspected abuse, neglect, or exploitation
- Describe what may happen after the initial report is made
- Identify barriers that may prevent persons with disabilities from reporting

*Adapted from the Florida Agency for Persons with Disabilities’ Zero Tolerance: Facilitator’s Guide, Module 5
Instructional Strategies and Activities

Say:
The section will teach you how to report abuse, neglect, or exploitation when you know or suspect that it may have taken place.

By the end of this section, you will be able to:
Explain how to report abuse, neglect, or exploitation.
Describe what may happen after the report is made
Identify things that may prevent persons with disabilities from reporting these types of crimes

Say:
In North Carolina, every person over the age of 18 is a mandatory reporter.

Any person who knows, or has reasonable cause to suspect, that a person with a developmental disability is being abused, neglected, or exploited, is required to report that information to their local Department of Social Services (DSS).

No North Carolina statute imposes civil or criminal penalties on individuals who fail to comply with the mandatory reporting requirements. Nevertheless, there is some possibility that an individual may be held civilly liable or criminally prosecuted for ignoring the statutory duty to report abuse or neglect of a child or disabled adult. However, North Carolina law provides statutory protection for individuals who make reports to the department of social services in good faith.

[Refer participants to page one of Module 2]

Say:
The Duty to report, content of report, and immunity statute states:

(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.

(b) The report may be made orally or in writing. The report shall include the name and address of the disabled adult; the name and address of the disabled adult's caretaker; the age of the disabled adult; the nature and extent of the disabled adult's injury or condition resulting from abuse or neglect; and other pertinent information.

(c) Anyone who makes a report pursuant to this statute, who testifies in any judicial proceeding arising from the report, or who participates in a required evaluation shall be immune from any civil or criminal liability on account of such report or testimony or participation, unless such person acted in bad faith or with a malicious purpose.

[Refer to page two of Module 2]
Say:
Sexual assault or any other type of injury-causing physical altercation (such as punching, stabbing, choking, or hitting another person with a heavy object) which takes place between two individuals with disabilities must also be reported immediately to the Department of Social Services, as well as the police, so that an investigation may occur in order to determine whether or not the alleged abuse was the result of inadequate supervision or neglect on the part of a service provider or caretaker.

In addition, service providers must also report the incident immediately to their supervisor to ensure the continued health and safety of the individuals involved.

[Refer to page three of Module 2]

Say:
If you know or suspect that a person with a disability is being abused, neglected, or exploited by a relative, caretaker, or household member then you should do all of the following immediately:

1. Call your local county Department of Social Services. Reports must be made within the county of the individual’s residence. A list of DSS county offices and Adult Protection Services can be found online.

2. Call the police, and

3. Notify your supervisor.

Note to the participants: If you know about a situation in which the life of a person with a disability is in immediate danger due to abuse, neglect, or exploitation, you should call 911 before calling anyone else.

Say:
Direct service providers should report knowledge or suspicion of abuse, neglect, or exploitation to their supervisors who may be required to report this information to the local DSS office (in accordance with established North Carolina reporting procedures).

However, provider agencies may not require their employees to first report such information to them before permitting their employees to call DSS or police.

[Refer to page four in Module 2]
Say:
Adult Protective Services intake coordinators may request the following information:
- Name, age, sex, physical description, and location of each victim alleged to have been abused, neglected, or exploited
- Names, addresses, and telephone numbers of each alleged perpetrator
- Name, address, and telephone number of the person reporting the alleged abuse, neglect, or exploitation
- Description of the physical or psychological injuries sustained
- Actions taken by the reporter, if any, such as notification of the police

Note to participants: It is important that you do not delay calling DSS if you do not have all of the above information. Instead, call DSS with whatever information you may have in order to protect person(s) from continued abuse, neglect, or exploitation.

Say:
When a report is made to DSS, that information is used to assess the risk to the victim and determine findings. All information obtained during an investigation is confidential but can also be used as evidence in any court proceedings that may take place.

Adult Protective Services (APS) Screening Decision Criteria:
- Disabled Adult
- Abused, Neglected, or Exploited
- In Need of Protective Services

If a report meets the legal criteria, a social worker will make an unannounced visit to the adult in order to complete a thorough evaluation and make a determination about the need for protection.

An APS report involving an emergency must be initiated within 24 hours. An emergency is a situation where the disabled adult will suffer death of irreparable harm if protective services are not provided. Non-emergency reports are initiated within 72 hours.

Steps in the APS Evaluation:
- A visit with the disabled adult (The evaluation has not been initiated until a visit has been made with the disabled adult).
- Consultation with others who know the disabled adult’s situation (This may include the reporter, neighbors, friends, relatives, other professionals, and facility staff working with the adult, and facility residents).
- Medical, psychological and/or psychiatric evaluations, when necessary
Then the social worker staffs this information with a team and they make a case decision. They decide if the adult is disabled, has been abused, neglected or exploited and if there is a need for protection at this time.

An APS report is substantiated when:
- The adult is determined to be a disabled adult;
- The adult is determined to be abused, neglected or exploited; and
- The adult is determined to be in need of protective services.

An APS report is unsubstantiated if any one of the three criteria above is not met.

If APS determines that there is a need for protection then the capacity of the adult, to consent to services, is determined by assessing his or her ability to understand the situation and the consequences of his or her decisions, if no changes are made.

An adult with capacity has the right to self-determination even if the choices may not appear to be in his or her best interest. If the adult has capacity to consent then he/she can refuse or accept the help offered by the social worker. If the adult does NOT have capacity to consent then permission to provide the services must be obtained from his/her guardian, durable power of attorney or the court.

If a disabled adult is found to be in need of protective services, essential services must be provided immediately to safeguard the disabled adult’s rights and resources, and to maintain the physical or mental well-being of the disabled adult. Essential services may include: the provision of medical care for physical and mental health needs, assistance with personal hygiene, food, clothing, adequately heated and ventilated shelter, protection from health and safety hazards, protection from physical mistreatment and exploitation.

As a direct care provider, it is your duty to assist the APS investigator when they ask. Here are some ways you as a caregiver can help an APS investigation:

1. If making a report, be as detailed as possible; describe what you’ve seen or noticed. For example, if you’ve noticed changes in a client’s body language or daily habits, the size and color of bruises and when they appeared, etc.
2. Document when you have made a report
3. Assist APS investigators (if needed) with interviewing a client. This might mean teaching them how to use assistive communication devices, educating them on the way your client prefers to communicate, etc.
4. Be cooperative with APS investigators
5. Be an advocate!

Remember, APS confidentiality laws can never say who made a report; you are protected!
Ask:
Can you think of any reasons why a person with a disability might not report abuse?

Say:
Persons with disabilities may fail to report abuse, neglect, or exploitation for the following reasons:

- Victims sometimes refuse to acknowledge that there is a problem
- Persons with disabilities are often taught to be compliant and passive and are sometimes unable to distinguish between appropriate and inappropriate physical contact
- Persons with disabilities may feel their report of abuse would not be believed
- Physical/cognitive impairments make it difficult for the victim to seek help
- Most augmentative communication systems (such as communication boards used by people who cannot speak) are not programmed to report abuse, neglect or exploitation.
- Victims do not know where to turn for help, and they are often isolated
- Victims may believe they are financially or otherwise dependent on the abuser for their needs;

Victims fear loss of a caretaker, even an abusing caretaker; they are fearful they will be forced to leave their current families or homes. Persons with disabilities may be more easily threatened by the withholding of needed care or equipment.

Ask:
Why might providers, caretakers, or others working with persons with disabilities fail to report suspected abuse?

Say:
Other people sometimes fail to report abuse, neglect, and exploitation of people with disabilities because:

- There is a general lack of understanding or awareness of the high rate of these types of crimes
- People, including professionals and law enforcement, often do not recognize abuse of persons with disabilities when they see it; they are often quick to dismiss the visible signs of abuse by saying it was probably caused by the person’s disability.
- Most people assume that no person would be capable of committing certain crimes against persons with disabilities
- Because they haven’t seen actual physical abuse, they may not believe a problem exists
- People fear financial or legal liability and retaliation if they make a report
Many people have the mistaken idea that their actions will not make a difference in cases of abuse, neglect, or exploitation

**Say:**
When someone with a disability is abused, neglected, or exploited, a number of different things need to happen. First, that person needs to recognize that they have been harmed or another person must know enough to recognize the signs and symptoms of abuse, neglect, or exploitation.

Next, the victim (or the person who knows or suspects that there is a problem) must take action by reporting (to a trusted person, the local DSS, and/or the police). Police or abuse investigators must conduct a thorough investigation and be trained in working with people with disabilities.

Perpetrators of abuse, neglect, or exploitation must be arrested and prosecuted so that they will no longer be able to have access to vulnerable individuals.
Domestic violence shelters and other victim assistance programs must be physically and programmatically accessible to individuals with disabilities who have been victimized.

In a perfect world, all of these things would take place without problems but, unfortunately that is not always the case. Failure or problems with any of these steps in the process may mean that the level of risk and danger will remain high.

**Discuss:**
Ask participants to form small (2-3 person) groups. Discuss the following questions in your small group and be prepared to present your findings to the other participants.

1. Who should you tell/notify in situations where you know or suspect someone with a disability is being abused, neglected, or exploited?

2. What information should you have available before you call in a suspected case of abuse, neglect or exploitation?

3. What are some reasons why someone might hesitate to report caretaker abuse?

**Debrief:**
Answer any questions participants might have.

**Transition:**
It’s up to YOU to report suspected abuse, neglect, or exploitation of a person with a disability. Now you know what to look for and who to contact!
If you only remember one thing from this course, we hope it is this; If you know or suspect that someone with a disability is being abused, neglected, or exploited, call the local Department of Social Services and the police. Your report could save that person’s life or protect him/her from further harm.

You’re ready to move on to the final section of this course. In this section you will learn about ways you can help prevent the abuse, neglect, and exploitation of persons with disabilities.
Module 1—Defining Abuse, Neglect, and Exploitation of Persons with Intellectual/Developmental Disabilities*

Module Overview
In this section you’ll learn what actions are considered abuse, neglect, and exploitation. You’ll also learn about some reasons why caretakers may commit such acts against people with developmental disabilities. Finally, you’ll learn about how the need for power and control can lead to those situations.

Learning Objectives
After completing this module, participants will be able to:

- Define “caretaker”
- Define the five general types of caretaker abuse
- Define “abuse”, “neglect”, and “exploitation” according to N.C. State statutes
- Explain how power and control contribute to caretaker abuse

*Adapted from Florida Agency for Persons with Disabilities Zero Tolerance: Participant’s Guide Module 2
Who is a Caretaker?

Take a few minutes to write down types of people who might provide care to persons with intellectual/developmental disabilities:

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What are some of the personal care tasks these caretakers might provide?

- 
- 
- 
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-
Who is a Caretaker?

Caretakers might be paid personal assistants, or they might be people who provide care for no pay. Unpaid caretakers might be:

- Family members such as a parent, spouse, sibling, or child
- Close friends
- Volunteers
- Neighbors

Still others who might be paid and are involved in an individual’s care include:

- Care Coordinators
- Homemakers
- Drivers
- Doctors
- Nurses
- Teachers/ teacher’s aides
- Social workers
- Psychiatrists
- Therapists
- Counselors
- Job coaches
- Sign language interpreters
- Workers in hospitals and other institutions
Caretaker Tasks

Caretakers are people who provide assistance with personal care tasks that include:

- Bathing
- Dressing
- Toileting
- Transferring (moving from one place to another, such as a couch to a chair)
- Eating
- Taking prescribed or over-the-counter medications or vitamins
- Cooking
- Cleaning
- Running errands
- Paying bills
- Providing transportation
Caretaker Abuse

In North Carolina, a "caretaker" is defined as:

“an individual who has the responsibility for the care of the disabled adult as a result of family relationship or who has assumed the responsibility for the care of the disabled adult voluntarily or by contract.”

<table>
<thead>
<tr>
<th>North Carolina’s Protection of the Abused, Neglected or Exploited Disabled Adult Act states:</th>
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<tbody>
<tr>
<td>(b) The word &quot;caretaker&quot; shall mean an individual who has the responsibility for the care of the disabled adult as a result of family relationship or who has assumed the responsibility for the care of the disabled adult voluntarily or by contract.</td>
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<tr>
<td>(d) The words &quot;disabled adult&quot; shall mean any person 18 years of age or over or any lawfully emancipated minor who is present in the State of North Carolina and who is physically or mentally incapacitated due to mental retardation, cerebral palsy, epilepsy or autism; organic brain damage caused by advanced age or other physical degeneration in connection therewith; or due to conditions incurred at any age which are the result of accident, organic brain damage, mental or physical illness, or continued consumption or absorption of substances.</td>
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# Types of Caretaker Abuse, Neglect, or Exploitation

Caretaker abuse is the exertion of the caretaker’s will over the person with a disability. Caretaker abuse usually falls into one of five categories. When abuse is present, these categories of abuse frequently overlap.

<table>
<thead>
<tr>
<th></th>
<th>Physical – hitting, pushing, hair pulling, kicking, biting, assault, inappropriate handling, overuse of restraints, over-medicating, inappropriate behavior modification, keeping the person awake, withholding or forcing the person to eat or take medications or beverages, attempted murder.</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Sexual – verbal harassment; unwanted sexual touching of private parts; forced abortion, sterilization or pregnancy; unwanted display of sexual parts (pornography, exhibitionism); tricking or manipulating into sexual activity; sexual assault; rape.</td>
</tr>
<tr>
<td>3</td>
<td>Emotional and/or Verbal – verbal abuse focused on impairment; denial of right to make decisions; threats to harm individual, pet(s) or service animal(s), family or children; humiliation; isolating the person from friends and family; emotional neglect; name calling.</td>
</tr>
<tr>
<td>4</td>
<td>Financial/Exploitation – denial of access to or control of funds; misusing financial resources; stealing money and personal belongings.</td>
</tr>
<tr>
<td>5</td>
<td>Neglect – denial of food, clothing, shelter or transportation; not working assigned hours or not performing duties; mistreating or refusing to feed pet(s) or service animal(s); withholding medications, food, medically necessary treatment, assistive equipment or personal/medical care; leaving individuals alone without a way to call for help; leaving individuals in bed all day or not getting them dressed; leaving individuals in a car by themselves while the caretaker shops; leaving individuals on the toilet or in soiled undergarments for long periods of time.</td>
</tr>
</tbody>
</table>
Activity: Identifying Types of Abuse, Neglect, or Exploitation

As the instructor reads the following scenarios, choose from one of the following for each scene:

A. Physical
B. Sexual
C. Emotional and/or verbal
D. Financial/Exploitation
E. Neglect

1.

2.

3.

4.

5.
Laws Regarding Abuse, Neglect, and Exploitation of Adults with Disabilities

There are several different ways to legally define abuse, neglect, and exploitation of adults with disabilities. Notice how different laws in North Carolina define these terms and protect persons with disabilities in different settings.

North Carolina’s Protection of the Abused, Neglected or Exploited Disabled Adult Act defines these terms in Article 6, Section § 108A-101.

(a) The word "abuse" means the willful infliction of physical pain, injury or mental anguish, unreasonable confinement, or the willful deprivation by a caretaker of services which are necessary to maintain mental and physical health.

(j) The word "exploitation" means the illegal or improper use of a disabled adult or his resources for another's profit or advantage.

(m) The word "neglect" refers to a disabled adult who is either living alone and not able to provide for himself or herself the services which are necessary to maintain the person's mental or physical health or is not receiving services from the person's caretaker. A person is not receiving services from his caretaker if, among other things and not by way of limitation, the person is a resident of one of the State-owned psychiatric hospitals listed in G.S. 122C-181(a)(1), the State-owned Developmental Centers listed in G.S. 122C-181(a)(2), or the State-owned Neuro-Medical Treatment Centers listed in G.S. 122C-181(a)(3), the person is, in the opinion of the professional staff of that State-owned facility, mentally incompetent to give consent to medical treatment, the person has no legal guardian appointed pursuant to Chapter 35A, or guardian as defined in G.S. 122C-3(15), and the person needs medical treatment.
Laws Regarding Abuse, Neglect, and Exploitation of Adults with Disabilities

Additionally, there are other laws that protect North Carolina adults with disabilities from physical abuse and sexual abuse/exploitation:

§ 14-32.1. **Assaults on handicapped persons**: punishments.

(a) For purposes of this section, a "handicapped person" is a person who has:

(1) A physical or mental disability, such as decreased use of arms or legs, blindness, deafness, mental retardation or mental illness; or

(2) Infirmity which would substantially impair that person's ability to defend himself.

…

(e) Unless his conduct is covered under some other provision of law providing greater punishment, any person who commits any aggravated assault or assault and battery on a handicapped person is guilty of a Class F felony. A person commits an aggravated assault or assault and battery upon a handicapped person if, in the course of the assault or assault and battery, that person:

(1) Uses a deadly weapon or other means of force likely to inflict serious injury or serious damage to a handicapped person; or

(2) Inflicts serious injury or serious damage to a handicapped person; or

(3) Intends to kill a handicapped person.

(f) Any person who commits a simple assault or battery upon a handicapped person is guilty of a Class A1 misdemeanor.
§ 14-32.3. **Domestic abuse, neglect, and exploitation of disabled or elder adults.**

(a) **Abuse.** – A person is guilty of abuse if that person is a caretaker of a disabled or elder adult who is residing in a domestic setting and, with malice aforethought, knowingly and willfully: (i) assaults, (ii) fails to provide medical or hygienic care, or (iii) confines or restrains the disabled or elder adult in a place or under a condition that is cruel or unsafe, and as a result of the act or failure to act the disabled or elder adult suffers mental or physical injury.

If the disabled or elder adult suffers serious injury from the abuse, the caretaker is guilty of a Class F felony. If the disabled or elder adult suffers injury from the abuse, the caretaker is guilty of a Class H felony.

A person is not guilty of an offense under this subsection if the act or failure to act is in accordance with G.S. 90-321 or G.S. 90-322.

(b) **Neglect.** – A person is guilty of neglect if that person is a caretaker of a disabled or elder adult who is residing in a domestic setting and, wantonly, recklessly, or with gross carelessness: (i) fails to provide medical or hygienic care, or (ii) confines or restrains the disabled or elder adult in a place or under a condition that is unsafe, and as a result of the act or failure to act the disabled or elder adult suffers mental or physical injury.

If the disabled or elder adult suffers serious injury from the neglect, the caretaker is guilty of a Class G felony. If the disabled or elder adult suffers injury from the neglect, the caretaker is guilty of a Class I felony.

(d) **Definitions.** – The following definitions apply in this section:

(1) **Caretaker.** – A person who has the responsibility for the care of a disabled or elder adult as a result of family relationship or who has assumed the responsibility for the care of a disabled or elder adult voluntarily or by contract.

(2) **Disabled adult.** – A person 18 years of age or older or a lawfully emancipated minor who is present in the State of North Carolina and who is physically or mentally incapacitated as defined in G.S. 108A-101(d).

(3) **Domestic setting.** – Residence in any residential setting except for a health care facility or residential care facility as these terms are defined in G.S. 14-32.2.

(4) **Elder adult.** – A person 60 years of age or older who is not able to provide for the social, medical, psychiatric, psychological, financial, or legal services necessary to safeguard the person's rights and resources and to maintain the person's physical and mental well-being.
Laws Regarding Abuse, Neglect, and Exploitation of Adults with Disabilities

§ 14-32.2. Patient abuse and neglect; punishments.

(a) It shall be unlawful for any person to physically abuse a patient of a health care facility or a resident of a residential care facility, when the abuse results in death or bodily injury.

(b) Unless the conduct is prohibited by some other provision of law providing for greater punishment:

(1) A violation of subsection (a) above is a Class C felony where intentional conduct proximately causes the death of the patient or resident;

(2) A violation of subsection (a) above is a Class E felony where culpably negligent conduct proximately causes the death of the patient or resident;

(3) A violation of subsection (a) above is a Class F felony where such conduct is willful or culpably negligent and proximately causes serious bodily injury to the patient or resident;

(4) A violation of subsection (a) is a Class H felony where such conduct evinces a pattern of conduct and the conduct is willful or culpably negligent and proximately causes bodily injury to a patient or resident.

(c) "Health Care Facility" shall include hospitals, skilled nursing facilities, intermediate care facilities, intermediate care facilities for the mentally retarded, psychiatric facilities, rehabilitation facilities, kidney disease treatment centers, home health agencies, ambulatory surgical facilities, and any other health care related facility whether publicly or privately owned.

(c1) "Residential Care Facility" shall include adult care homes and any other residential care related facility whether publicly or privately owned.

(d) "Person" shall include any natural person, association, corporation, partnership, or other individual or entity.

(e) "Culpably negligent" shall mean conduct of a willful, gross and flagrant character, evincing reckless disregard of human life.

(e1) "Abuse" means the willful or culpably negligent infliction of physical injury or the willful or culpably negligent violation of any law designed for the health or welfare of a patient or resident.
Laws Regarding Abuse, Neglect, and Exploitation of Adults with Disabilities

Employees of residential care facilities are required by law to report suspected abuse, neglect, and exploitation, as well as protect their clients from harm, abuse, neglect or exploitation:

10A NCAC 27D .0304 Protection from Harm, Abuse, Neglect or Exploitation

(a) Employees shall protect clients from harm, abuse, neglect and exploitation in accordance with G.S. 122C-66.
(b) Employees shall not subject a client to any sort of abuse or neglect, as defined in 10A NCAC 27C .0102 of this Chapter.
(c) Goods or services shall not be sold to or purchased from a client except through established governing body policy.
(d) Employees shall use only that degree of force necessary to repel or secure a violent and aggressive client and which is permitted by governing body policy. The degree of force that is necessary depends upon the individual characteristics of the client (such as age, size and physical and mental health) and the degree of aggressiveness displayed by the client. Use of intervention procedures shall be compliance with Subchapter 10A NCAC 27E of this Chapter.
(e) Any violation by an employee of Paragraphs (a) through (d) of this Rule shall be grounds for dismissal of the employee.
Laws Regarding Abuse, Neglect, and Exploitation of Adults with Disabilities

North Carolina General Statues, Article 7A, describes Rape and Other Sex Offenses. This article provides protective language for persons with disabilities:

"Mentally disabled" means (i) a victim who suffers from mental retardation, or (ii) a victim who suffers from a mental disorder, either of which temporarily or permanently renders the victim substantially incapable of appraising the nature of his or her conduct, or of resisting the act of vaginal intercourse or a sexual act, or of communicating unwillingness to submit to the act of vaginal intercourse or a sexual act.

"Mentally incapacitated" means a victim who due to any act committed upon the victim is rendered substantially incapable of either appraising the nature of his or her conduct, or resisting the act of vaginal intercourse or a sexual act.

"Physically helpless" means (i) a victim who is unconscious; or (ii) a victim who is physically unable to resist an act of vaginal intercourse or a sexual act or communicate unwillingness to submit to an act of vaginal intercourse or a sexual act.

"Sexual act" means cunnilingus, fellatio, analingus, or anal intercourse, but does not include vaginal intercourse. Sexual act also means the penetration, however slight, by any object into the genital or anal opening of another person's body: provided, that it shall be an affirmative defense that the penetration was for accepted medical purposes.

"Sexual contact" means (i) touching the sexual organ, anus, breast, groin, or buttocks of any person, (ii) a person touching another person with their own sexual organ, anus, breast, groin, or buttocks, or (iii) a person ejaculating, emitting, or placing semen, urine, or feces upon any part of another person.
Laws Regarding Abuse, Neglect, and Exploitation of Adults with Disabilities

Below are Rape and Other Sex Offenses that include language to protect persons with disabilities:

§ 14-27.3. Second-degree rape.
(a) A person is guilty of rape in the second degree if the person engages in vaginal intercourse with another person:
(1) By force and against the will of the other person; or
(2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know the other person is mentally disabled, mentally incapacitated, or physically helpless.
(b) Any person who commits the offense defined in this section is guilty of a Class C felony.
(c) Upon conviction, a person convicted under this section has no rights to custody of or rights of inheritance from any child conceived during the commission of the rape, nor shall the person have any rights related to the child under Chapter 48 or Subchapter 1 of Chapter 7B of the General Statutes.

§ 14-27.5. Second-degree sexual offense.
(a) A person is guilty of a sexual offense in the second degree if the person engages in a sexual act with another person:
(1) By force and against the will of the other person; or
(2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know that the other person is mentally disabled, mentally incapacitated, or physically helpless.
(b) Any person who commits the offense defined in this section is guilty of a Class C felony.

§ 14-27.5A. Sexual battery.
(a) A person is guilty of sexual battery if the person, for the purpose of sexual arousal, sexual gratification, or sexual abuse, engages in sexual contact with another person:
(1) By force and against the will of the other person; or
(2) Who is mentally disabled, mentally incapacitated, or physically helpless, and the person performing the act knows or should reasonably know that the other person is mentally disabled, mentally incapacitated, or physically helpless.
(b) Any person who commits the offense defined in this section is guilty of a Class A1 misdemeanor.
Activity

In small groups, work together to create scenarios of possible situations of abuse, neglect, or exploitation.

Potential Example of Abuse:

Potential Example of Neglect:

Potential Example of Financial Exploitation:
Module Overview

This section will teach you how to report abuse, neglect, or exploitation when you know or suspect that it may have taken place.

Learning Objectives

After completing this module, participants will be able to:

- Explain how to report suspected abuse, neglect, or exploitation
- Describe what may happen after the initial report is made
- Identify barriers that may prevent persons with disabilities from reporting

*Adapted from Florida Agency for Persons with Disabilities Zero Tolerance: Participant’s Guide Module 5
Mandatory Reporting Requirements

In North Carolina, every person over the age of 18 is a mandatory reporter.

North Carolina law provides protection for individuals who make reports to the
department of social services in good faith.

§ 108A-102. Duty to report; content of report; immunity.

(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.

(b) The report may be made orally or in writing. The report shall include the name and
address of the disabled adult; the name and address of the disabled adult's caretaker;
the age of the disabled adult; the nature and extent of the disabled adult's injury or
condition resulting from abuse or neglect; and other pertinent information.

(c) Anyone who makes a report pursuant to this statute, who testifies in any judicial
proceeding arising from the report, or who participates in a required evaluation shall be
immune from any civil or criminal liability on account of such report or testimony or
participation, unless such person acted in bad faith or with a malicious purpose. (1973,
c. 1378, s. 1; 1975, c. 797; 1981, c. 275, s. 1.)

Any person who knows, or has reasonable cause to suspect, that a person with a
developmental disability is being abused, neglected, or exploited, is required to
report that information to their local Department of Social Services (DSS).

No North Carolina statute imposes civil or criminal penalties on individuals who fail to
comply with the mandatory reporting requirements. Nevertheless, there is some
possibility that an individual may be held civilly liable or criminally prosecuted for
ignoring the statutory duty to report abuse or neglect of a disabled adult.

Keep in mind that, as a service provider, failure to report known or suspected
abuse can also cause you to lose your job and/or face possible legal action.
When in doubt, report it; it is always better to make a mistake on the side of
cautions.
Client-on-Client Abuse

Sexual assault or any other type of injury-causing physical altercation (such as punching, stabbing, choking, or hitting another person with a heavy object) which takes place between two individuals with disabilities must also be reported immediately to DSS, as well as the police so that an investigation may occur in order to determine whether or not the alleged abuse was the result of inadequate supervision or neglect on the part of a service provider or caretaker.

In addition, service providers must also report the incident immediately to their supervisor to ensure the continued health and safety of the individuals involved. DSS investigators will work with site administration to ensure safety to everyone involved.
How to Report Abuse, Neglect, or Exploitation

If you know or suspect that a person with a disability is being abused, neglected, or exploited by a relative, caretaker, or household member, then you should do all of the following immediately:

1. Call your local county Department of Social Services. Reports must be made within the county of the individual’s residence. A list of DSS county offices can be found here: http://www.ncdhhs.gov/dss/local/

2. Call the police, and

3. Notify your supervisor

Note: If you know about a situation in which the life of a person with a disability is in immediate danger due to abuse, neglect, or exploitation, you should call 911 before calling anyone else.
Information That May Be Requested By DSS

Adult Protective Services intake coordinators may request the following information:

- Name, age, sex, physical description, and location of each victim alleged to have been abused, neglected, or exploited
- Names, addresses, and telephone numbers of each alleged perpetrator
- Name, address, and telephone number of the person reporting the alleged abuse, neglect, or exploitation
- Description of the physical or psychological injuries sustained
- Actions taken by the reporter, if any, such as notification of the police

NOTE: It is important that you do not delay calling DSS if you do not have all of the above information. Instead, call DSS with whatever information you may have in order to protect person(s) from continued abuse, neglect, or exploitation.

You do NOT have to know whether the type of action against the victim is abuse, neglect, or exploitation. Just report the information you know, and DSS will determine it for you.
What Happens After a Call is Made?

When a report is made to DSS, that information is used to assess the risk to the victim and determine findings. All information obtained during an investigation is confidential but can also be used as evidence in any court proceedings that may take place.

Adult Protective Services (APS) Screening Decision Criteria:

- Disabled Adult
- Abused, Neglected, or Exploited
- In Need of Protective Services

If a report meets the legal criteria, a social worker will make an unannounced visit to the adult in order to complete a thorough evaluation and make a determination about the need for protection.

An APS report involving an emergency must be initiated within 24 hours. An emergency is a situation where the disabled adult will suffer death or irreparable harm if protective services are not provided. Non-emergency reports are initiated within 72 hours.
Steps in the APS Evaluation

1. A visit with the disabled adult (The evaluation has not been initiated until a visit has been made with the disabled adult).

2. Consultation with others who know the disabled adult’s situation (This may include the reporter, neighbors, friends, relatives, other professionals, and facility staff working with the adult, and facility residents).

3. Medical, psychological and/or psychiatric evaluations, when necessary

The social worker then discusses this information with a team and they make a case decision. They decide if the adult is disabled, has been abused, neglected or exploited and if there is a need for protection at this time.
Substantiated vs. Unsubstantiated

An APS report is **substantiated** when:

- The adult is determined to be a disabled adult;
- The adult is determined to be abused, neglected or exploited; and
- The adult is determined to be in need of protective services.

An APS report is **unsubstantiated** if any one of the three criteria above is not met.

If APS determines that there is a need for protection then the capacity of the adult, to consent to services, is determined by assessing his or her ability to understand the situation and the consequences of his or her decisions, if no changes are made.

If a disabled adult is found to be in need of protective services, essential services must be provided immediately to safeguard the disabled adult’s rights and resources, and to maintain the physical or mental well-being of the disabled adult. Essential services may include:

- provision of medical care for physical and mental health needs
- assistance with personal hygiene, food, clothing, adequately heated and ventilated shelter
- protection from health and safety hazards
- protection from physical mistreatment and exploitation.

**NOTE:** An adult with capacity to consent has the right to self-determination even if the choices may not appear to be in his or her best interest. If the adult has capacity to consent then he/she can refuse or accept the help offered by the social worker.

If the adult does NOT have capacity to consent then permission to provide the services must be obtained from his/her guardian, durable power of attorney or the court.
How Can YOU Help the APS Investigation?

1. If making a report, be as detailed as possible; describe what you’ve seen or noticed. For example, if you’ve noticed changes in a client’s body language or daily habits, the size and color of bruises and when they appeared, etc.

2. Document when you have made a report

3. Assist APS investigators (if needed) with interviewing a client. This might mean teaching them how to use assistive communication devices, educating them on the way your client prefers to communicate, etc.

4. Be cooperative with APS investigators

5. Be an advocate for your client!

NOTE: Remember, APS confidentiality laws can never say who made a report; you are protected!
Barriers to Reporting

Persons with disabilities may fail to report abuse, neglect, or exploitation for the following reasons:

- Victims refuse to acknowledge that there is a problem
- Persons with disabilities are often taught to be compliant and passive and are sometimes unable to distinguish between appropriate and inappropriate physical contact
- Persons with disabilities may feel their report of abuse would not be believed
- Physical/cognitive impairments make it difficult for the victim to seek help
- Most augmentative communication systems (such as communication or picture boards used by people who cannot speak) are not programmed with language appropriate to report abuse, neglect or exploitation.
- Victims do not know where to turn for help, and they are often isolated
- Victims are, or perceive themselves to be, financially or otherwise dependent on the abuser for their needs; abuser tells victim they will lose everything if anyone is told
- Victims fear loss of a caretaker, even an abusing caretaker; they are fearful that the solution to the problem is more negative or frightening than the problem itself; they are fearful they will be forced to leave their current families or homes. Persons with disabilities may be more easily coerced with or threatened by the withholding of needed care or equipment.
Barriers to Reporting

Additionally, providers and other people sometimes fail to report abuse, neglect, and exploitation of people with disabilities because:

- There is a general lack of understanding or awareness of the high rate of these types of crimes

- People, including professionals and law enforcement, often do not recognize abuse of persons with disabilities when they see it; they are often quick to dismiss the visible signs of abuse by saying it was probably caused by the person’s disability

- Most people assume that no person would be capable of committing certain crimes against persons with disabilities

- Because they haven't seen actual physical abuse, they may not believe a problem exists.

- People fear financial or legal liability and retaliation if they report suspected abuse

- Many people have the mistaken idea that their actions will not make a difference in cases of abuse, neglect, or exploitation
Activity

Discuss the following questions in your small groups and be prepared to present your findings to the other participants:

1. Who should you tell/notify in situations where you know or suspect someone with a disability is being abused, neglected, or exploited?

2. What information should you have available before you call in a suspected case of abuse, neglect or exploitation?

3. What are some reasons why someone might hesitate to report caretaker abuse, neglect, or exploitation?
Summary

It's up to **YOU** to report suspected abuse, neglect, or exploitation of a person with a disability. Now you know what to look for and who to contact!

If you only remember one thing from this course, we hope it is this; **If you know or suspect that someone with a disability is being abused, neglected, or exploited, call the local Department of Social Services and the police.** Your report could save that person’s life or protect him/her from further harm.

You’re ready to move on to the final section of this course. In this section you will learn about ways you can help prevent the abuse, neglect, and exploitation of persons with disabilities.
References

(1) Tyiska CG. Working with victims of crime with disabilities. : US Department of Justice, Office of Justice Programs, Office for Victims of Crime; 1998.


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