

Protecting and promoting the health and safety of the people of Wisconsin

Recognizing Signs of Abuse of Persons with Dementia

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Abuse, Financial Exploitation, Neglect, and Self-Neglect

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Who is Abused?

- Men, women
- People of all ages, races, cultures, religions, socioeconomic groups
- People with reduced capacity to care for self or dependency on others

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Wisconsin APS Statutes

- Wisconsin Stat. § 46.90 (Elder Abuse Reporting System)
- Wisconsin Stat. ch. 55 (Protective Service System; Adult-at-Risk Reporting System)

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Elder Adult at Risk

A person aged 60 or older who has experienced, is currently experiencing, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.

Wisconsin Stat. § 46.90(1)(br)

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Adult at Risk

A person aged 18 to 59 who has a physical or mental condition that substantially impairs his or her ability to care for his or her needs and who has experienced, or is at risk of experiencing abuse, neglect, self-neglect, or financial exploitation.

Wisconsin Stat. § 55.01(1e)

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Defining Abuse

An intentional, reckless, or neglectful act or omission that results or may result in harm to an individual.

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Defining Abuse

Types of abuse:

- Physical
- Emotional
- Sexual
- Treatment without consent
- Unreasonable confinement or restraint

Wisconsin Stat. § 46.90(1)(a)1-5

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Characteristics of Abuse

- Intentional harm involving the exercise of power and control.
- Often reflects a pattern of behavior by the abuser or involves the manipulation of others in a relationship with the individual.

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Defining Physical Abuse

- Intentional or reckless infliction of bodily harm: Wis. Stat. § 46.90(1)(fg)
- Bodily harm means physical pain or injury, or any impairment of physical condition: Wis. Stat. § 46.90(1)(aj)

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Signs of Physical Abuse

- Substantial bodily harm (bruises, broken bones, burns, internal injuries, concussions)
- Broken eyeglasses, hearing aids, other devices
- Injuries not properly cared for, repeated, or unexplained

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Signs of Physical Abuse

- Frequent use of emergency room, hospital care
- Actions to prevent discovery of abuse
 - Access denied to communication, mobility aids
 - Doctor “hopping”
 - Clothing that conceals injuries, dark glasses

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Defining Emotional Abuse

- Language or behavior that serves no legitimate purpose and is intended to be intimidating, humiliating, threatening, frightening, or otherwise harassing
- Nonverbal forms

Wisconsin Stat. § 46.90(1)(cm)

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Signs of Emotional Abuse

Individual affect

- Helpless, withdrawn, nonresponsive
- Agitated, fearful
- Self-blaming

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Examples of Emotional Abuse

Abuser:

- Yells at, threatens, or belittles individual
- Speaks for or controls individual
- Threatens to institutionalize individual
- Threatens to harm or kill individual's animals

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Defining Sexual Abuse

- Nonconsensual sexual contact of any kind
- Sexual contact with an individual incapable of giving consent
- Hands-on contact, hands off interaction, or harmful genital practices

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Defining Sexual Abuse

Subjecting an individual to sexual contact of a type that would be considered a sexual assault under the criminal law

Wisconsin Stat. §§ 46.90(1)(a)1-5 and (1)(gd) and 940.225(1), (2), (3), or (3m)

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Signs of Sexual Abuse

- Bruises
- STDs, infections
- Bleeding, pain, itching
- Torn, bloody, stained underclothing
- Difficulty walking or sitting
- Verbal account of incident

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Defining Treatment Without Consent

- Administration of medication, performance of psychosurgery, or electroconvulsive therapy
- Experimental research on an individual who has not provided informed consent
- Knowledge that no lawful authority exists for the administration or performance

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Defining Unreasonable Confinement and Restraint

Includes:

- Intentional and unreasonable confinement of an individual in a locked room
- Involuntary separation of an individual from his or her living area
- Use of physical restraining devices on an individual

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Defining Unreasonable Confinement and Restraint

- Provision of unnecessary or excessive medication to an individual
- Does not include use of these methods or devices in DHS-regulated facilities if the method or devices are employed in conformance with state and federal standards

Wisconsin Stat. § 46.90(1)(i)

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Defining Neglect

- The failure of a caregiver, as evidenced by an act, omission, or course of conduct, to secure or maintain adequate care, services, or supervision for an individual
- Caregiver failure creates significant risk or danger to the individual's physical or mental health

Wisconsin Stat. § 46.90(1)(f)

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Defining Neglect

- Includes failure to provide food, clothing, shelter, and physical or mental health care
- A caregiver is a person who has assumed responsibility for all or a portion of an individual's care voluntarily, by contract, or by agreement

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Defining Neglect

- Caregiver includes a person acting or claiming to act as a legal guardian
- Neglect does not include decisions to refuse or not seek medical care that are consistent with a previously executed declaration or power of attorney

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Signs of Neglect

- Unkempt appearance
- Bedsores
- Soiled clothing or bedding
- Inadequate or spoiled food
- Unsafe or unclean living conditions
- Lack of appropriate medical equipment

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Defining Self-Neglect

- A significant danger to an individual's physical or mental health because the individual is responsible for his or her own care, but fails to obtain adequate care
- Includes failure to obtain food, shelter, clothing, or medical or dental care

Wisconsin Stat. § 46.90(1)(g)

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Defining Self-Neglect

- Harm is not attributable to an abuser.
- People with decision-making capacity who make voluntary, informed choices that put their health or safety at risk are not considered self-neglecting.

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Defining Financial Exploitation

Obtaining an individual's money or property by:

- Deceiving or enticing the individual.
- Forcing, compelling, or coercing the individual to give, sell at less than fair market value, or in other ways convey money or property against his or her will without his or her informed consent.

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Defining Financial Exploitation

- Theft, unauthorized use of personal identifying information or documents, forgery, financial transaction card crimes
- Substantial failure or neglect of a fiscal agent to fulfill his or her responsibilities (guardian of the estate, financial power of attorney, conservator, representative payee)

Wisconsin Stat. § 46.90(1)(ed)

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Signs of Financial Exploitation

- Changes in bank account
- Disappearance of funds, possessions
- Transfer of assets
- Forged signature on checks, other financial and legal documents

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**Signs of
Financial Exploitation**

- Changes to will, powers of attorney
- Remarks indicating cost of care is more important than quality of care
- Failure to pay facility charges

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Abusers

- Most likely to be spouses, adult children, or other family members
- Often surrogate decision-makers
- Justify abuse or try to hide evidence

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Abusers

Characterized by risk factors indicating a likelihood to abuse

- Financial dependence on individual at risk perhaps most indicative
- Alcohol and/or drug dependence
- Mental health issues

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Reporting System

County agencies

- Elder-adult at risk
- Adult at risk
- Adult protective services (APS)

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Reporting System

Agency responsibilities

- Respond to, investigate reports
- Offer services
- Make referrals to law enforcement, other agencies
- Initiate appropriate legal action

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Whom to Call When

- If an emergency, call law enforcement or 911.
- If abuser is a paid professional caregiver or another resident in a facility, contact the Office of Caregiver Quality in the Department of Health Services, Division of Quality Assurance.

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Whom to Call When

- If abuser is a nonprofessional caregiver (family member, guardian, etc.), follow facility protocol; then contact county APS.
- If a victim needs an advocate (age 60+ and a consumer of a long-term care program), contact the Ombudsman Program.

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Cultural Practices

Some nontraditional medical treatments leave marks on the body, but are not signs of abuse

- Cupping
- Coining (Gua Sha, Cao gio)
- Moxibustion

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Cultural Practices

Cupping involves creating areas of suction on the surface of the skin to draw out causes of pain and disease



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Cultural Practices

Coining (Gua Sha, Cao gio) involves downward pressure using a smooth hard edge to release the 'heat' trapped within the skin to treat pain and illness



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Cultural Practices

Moxibustion involves the burning of mugwort in close proximity to the skin to strengthen the blood and stimulate the flow of "qi"



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The Dignity of Risk: Decisional Capacity in Persons with Dementia

Certain information in this section was taken from a presentation given by Kim Marheine, Ombudsmen Services Supervisor, and Alice Page at the InControl Wisconsin Aging Empowerment Conference on June 8, 2016.

Basic Premises

- All people need and use help and support to understand, make, and carry out or communicate decisions.
- Disability is a natural part of human experience.
 - Lifelong
 - Acquired as one ages
 - Acquired as result of an event

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Basic Premises

- Every choice has risk and consequence.
- Some people choose to live with more risk than others and are willing to accept the consequences of their choices.

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Right to Make Decisions

- The right to make decisions is not contingent upon:
 - Quality.
 - Process.
 - How communicated.
- Individuals can choose freedom over safety.

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Safety:
The Elephant in the Room?

- What does it mean to be safe?
- Who should determine what this means for an individual?
- Can we really keep people safe?

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Safety:
The Elephant in the Room?

- When does trying to keep people safe become too restrictive, coercive, or even abusive?
- When does the cost of safety outweigh the benefits?
 - Autonomy
 - Dignity
 - Freedom

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Safety:
The Elephant in the Room?

Challenges in balancing rights, self-determination, and risk in decision-making for persons with dementia:

- Fluctuating cognitive and functional abilities over time, throughout the day.
- Cognitive losses accumulate over time.
- Different types of dementia have different symptoms, progression.

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Safety:
The Elephant in the Room?

Challenges in balancing rights, self-determination, and risk in decision-making for persons with dementia:

- Desires of family, friends
- Desire for safety above autonomy
- Medications
- Loss of verbal abilities
- Overwhelmed caregivers

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Safety:
The Elephant in the Room?

Decisions are not all the same

- Is there a risk of harm if the right choice is not made?
- Is the decision really just an expression of opinion?
- What are the legal implications of the decision?

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Risk: Younger Adults

- Assessed based on current skills, potential to learn new skills, and future goals
- Often leads to higher degree of acceptable risk with good wrap-around of supports
- Fuller, more positive, goal-focused experience

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Risk: Older Adults

- Assessed based on history, deficits
- Often leads to denial of request to accept risk; at most extreme, guardianship imposed to “protect”
- Less focus on future, goals, relearning skills; oriented more toward being satisfied with current status

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Self-Determination

People with greater self-determination are:

- Healthier
- More independent
- More integrated into community
- Better able to recognize and resist abuse; in other words, safer
- Able to make better decisions than those who are not allowed to participate in decision-making

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Dignity of Risk

- A decision is a step along the path of life.
- Life is a process, not a product.

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Dignity of Risk

- Understanding, supporting this process enables individuals to more successfully make decisions incrementally.
- Acknowledging this insures rights of self-determination and choice.

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Dignity of Risk

What If ...

- You could never do something because of a mistake or choice you once made?
- Everyday you just waited? To eat, to use the bathroom, to be acknowledged?

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Dignity of Risk

What If ...

- You were asked to make a decision, but the person still did it his or her way and didn't tell you why?
- You were never allowed to make a mistake?
- You never were given a chance?

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Supported Decision-Making

Purpose is to help individuals:

- Understand options, responsibilities, and consequences of their decisions.
- Obtain, understand information relevant to their decisions.
- Communicate their decisions to the appropriate people.

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Supported Decision-Making

- Alternative to guardianship, which holds promise to empower many, but not all, people with decision-making capacity to use available supports to make their own choices and live more self-directed lives
- Degenerative diseases within scope of “functional impairments”

Wisconsin Stat. ch. 52

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Questions and Wrap Up

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