



## **Mandatory Reporting**

### **Understanding Adult Protective Services or RSA 161-F:42-57**

**OBJECTIVES:** Upon completion of this form, you should be able to:

- Understand Adult Protective Services Law RSA 161-F: 42-57
- Understand types of abuse
- Understand Seniors Helping Seniors' policy on when/how to report

### **GOAL: Understanding Adult Protective Services or RSA 161-F:42-57**

- In 1978 NH was one of the 1<sup>st</sup> states to enact APS Law
- Covers individuals aged 18 and over who are incapacitated
- “Incapacitated means that the physical, mental, or emotional ability of the person is such that he/she is unable to manage personal, home, or financial affairs in his/her own best interest, or is unable to act to delegate responsibility to a responsible caregiver.”
- Civil not criminal law has remedy as its intent.
  - “The purpose is to provide protection for incapacitated adults who are abused, neglected, or exploited. Implicit...is the philosophy that whenever possible an adult’s right to self-determination should be preserved, and that each adult should live in safe conditions and should live his own life without interruption from state government. Only when these principles become impossible to follow should legal proceedings be initiated in order to care for and protect such adults.”
- Includes a mandatory reporting section: RSA 161-F:46
- Requires that ANY person suspecting or believing in good faith that an adult who is or who is suspected to be incapacitated has been subjected to abuse, neglect, self-neglect or exploitation, must report this to the Bureau of Elderly and Adult Services (BEAS)
- Failing to make a report can result in being found guilty of a misdemeanor.
- APS Law also includes Immunity from Liability “Any person participating in Good Faith...”

## **Types of Abuse**

- “Emotional Abuse” means the misuse of power, authority, or both, verbal harassment, or unreasonable confinement which results or could result in the mental anguish or emotional distress of an incapacitated adult.
- “Physical Abuse” means the use of physical force which results or could result in physical injury to an incapacitated adult.
- “Sexual Abuse” means contact or interaction of a sexual nature involving an incapacitated adult without his or her informed consent.
- “Neglect” means an act or omission which results or could result in the deprivation of essential services or supports necessary to maintain the minimum mental, emotional, or physical health of an incapacitated adult.
- “Self-neglect” means an act or omission by an incapacitated adult which results or could result in the deprivation of essential services or supports necessary to maintain his or her minimum mental, emotional, or physical health and safety.
- “Exploitation” means the illegal use of an incapacitated adult’s person or property for another person’s profit or advantage, or the breach of a fiduciary relationship through the use of a person or person’s property for any purpose not in the proper and lawful execution of a trust, including, but not limited to, situations where a person obtains money, property, or services from an incapacitated adult through the use of undue influence, harassment, duress, deception, or fraud.

## **Indicators of Physical Abuse**

- Bruises/Welts
  - Bilateral bruising: top of shoulders, inside thighs, both sides of face
  - Bruises in various stages of healing
  - Multiple bruises that form clusters from arms to elbows
  - Bruises with familiar shape: hand print, finger marks, belt buckle, electric cord
- Burns
  - Scalding burns causing blistering from hot water
  - Small burns from cigarettes or cigar butts, especially on soles of feet, palms, back of buttocks
  - Burns in shape of familiar objects, such as an iron
  - Rope burns on arms, legs, torso, or neck
- Cuts, lacerations, punctures or wounds

- Sprains, dislocations
- Fractures of the skull, nose or facial structure
- Broken bones
  - Pain and inability to move a limb
  - In various stages of healing
- Internal injuries
  - Unexplained pain, abnormal functioning of organs, bleeding from bodily orifices, vomiting

### **Indicators of Neglect**

- Caretaker or responsible party fails to:
  - Wash, bathe, dress, provide personal care
  - Shop for food, prepare meals, feed the adult
  - Change the bed linens/pads so that bed is soiled and or urine soaked
  - Change the position of bed-bound individual to lesson possibility of bed/pressure sores
  - Provide supervision, allowing adult with dementia or Alzheimer’s Disease to wander
  - Purchase/administer necessary medications properly

### **Indicators of Self-Neglect**

- Evidence of poor hygiene
  - Matted or lice-infested hair
  - Soiled clothing
  - Odors or presence of feces/urine
  - Dirty nails/skin
- Dehydration, malnutrition
- Inadequate or inappropriate clothing for the weather
- Hoarding
- Untreated medical condition and refusal to seek/accept treatment
- Decubiti
- Inability/failure to pay bills
- Mental confusion

## Indicators of Sexual Abuse

- Torn, stained or bloody underclothing
- Difficulty in walking or sitting
- Pain, itching, bruising or bleeding in genital area
- Unexplained venereal disease or genital infections

## Indicators of Emotional Abuse

- Verbal harassment such as yelling, ridiculing, berating
- Withholding food, money, or mail
- Threatening harm
- Refusing to allow contact with friends or family
- Confining, locking in/out

## FAQs

- *Can I file anonymously?* YES. Although majority of reporters to BEAS identify themselves. SHS procedure – discuss concerns with client coordinator
- *When do I talk to the adult who may be suffering from mistreatment or self-neglect, and do I tell the adult that I have to report?* That is up to you based on your relationship with the individual. It is usually beneficial to let the adult know that you have concerns.
- *If I do give my name, will it be given out?* Under the Protection Program Administrative Rule, BEAS only releases the name when requested by law enforcement or in response to a court order.
- *Who are the victims in NH?* Individuals from age 18 to over 100, most living in the community; physically or mentally disabled, suffering from mental illness or dementia associated with aging, elderly and in frail health.
- *How many reports do you receive a year?* When APS first started collecting statistics in 1980 there were 239 reports received statewide. In FY 2007 2,450 reports were received statewide.
- *How many reports are on elderly victims?* In FY 2007 1,633 (66.6%) of the 2,450 reports involved alleged victims over the age of 60.
- *If the adult is at risk remaining at home, can BEAS remove him/her to a safer place?* If the individual is willing to leave, BEAS will help to find a substitute living arrangement for him/her. If not willing BEAS has no legal authority to remove to adult against their wishes. Because the adult is over 18 they have the right to make their own decisions, even if we feel they are “bad”

decisions. However, BEAS continues to stay involved and works towards helping the adult accept safer options.

- *What if the adult has dementia and really doesn't understand the situation?* If there is a possibility that the individual may not be making informed decisions, BEAS will assess the need for a substitute decision-maker, and if one is necessary, may assist a willing and concerned family member to take on that responsibility, or if there is no one, may petition the state for guardianship.

### **SHS Policy**

- **If you have concerns about how one of our receivers is being treated or suspect abuse/neglect of any type you can speak to the client coordinator involved or you may feel you want to report on your own. Often it is important to discuss with the client coordinator to help determine if this is an alternative lifestyle or if there is reason to suspect abuse/neglect.**

### **Reporting Child Abuse**

Seniors Helping Seniors NH recognizes that we may also become aware of/suspect abusive/neglectful behavior towards children in the course of providing services to seniors. Therefore we must also comply with New Hampshire's child abuse reporting statute, RSA 169-C:29-31. This statute requires that "any person having reason to suspect that a child has been abused or neglected shall report the same in accordance with this chapter." Reporters can remain anonymous, request that their identity not be disclosed to the family, or can allow their identity to be disclosed.