

Advocacy for Victims of Abuse: How to Engage Law Enforcement and Support Residents

S.A.F.E. in LTC Taskforce

Investigating Crimes in Long Term Care: Voiceless Victims:

Kathryn A. Lanier
Section Chief, Elder Rights and Special Initiatives
North Carolina Division of Aging and Adult Services
October, 25, 2013



Impact of Abuse on Residents

- Literally can shorten the resident's life
- Increase in pain and reduction in quality of life
- Hesitant to report mistreatment due to perceived or actual vulnerability
- Jeopardizes their ability to remain in the facility if a victim of financial abuse or exploitation

Allegations and Suspicions

- Take the information shared at face value
- Gather enough information related to the concern that if you need to relay the resident's allegation to adult protective services or law enforcement you could do so in a satisfactory manner
- Explain the protocol or next steps that will be taken to address the concerns shared with you by the complainant

Possible Entities for Reporting Allegations

■ Regulatory Authorities

- Survey Agencies

- Personnel Registries

■ Adult Protective Services

■ Law Enforcement

- Police



- Sheriff

- Probation/Parole

■ Medicaid Fraud Investigation Unit

Different Goals – Same Outcome

Regulatory

-  Was there a violation of a rule ?
-  Was it an individual or the organization?

APS/Ombudsman

-  Is the person safe/ok ?

Law Enforcement

-  Was there a crime committed?

Required Reporting (Nursing Homes)

- Report crime within 2 hours in cases of serious bodily injury
- Report crime or suspicion of crime within 24 hours.
- Failure to comply or retaliation against any reporter will trigger substantial civil monetary penalties.
- Reports must be submitted to at least one law enforcement agency of jurisdiction and the state Survey Agency (in fulfillment of the statutory directive to report to the Secretary).




Required Reporting (Nursing Homes)

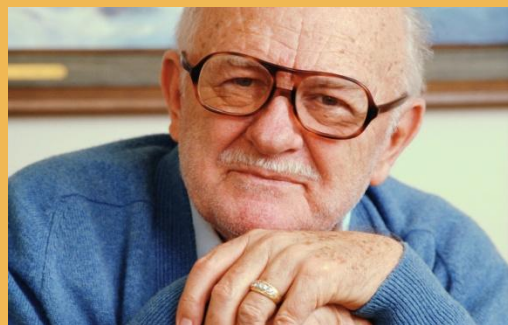
- SAs should process reports received under Section 1150B of the Act in accordance with existing Centers for Medicare & Medicaid Services (CMS) and State policies and procedures for reporting incidents and complaints to SAs.
- LTC Facility Policies and Procedures: LTC facilities should have policies and procedures to comply with this law. The obligations of the facility are different than the obligations of a covered individual.



Duty to Report

N.C.G.S. 108A-102

 **Any person having reasonable cause to believe a disabled adult is in need of protective services shall report such information.**



Time Frames (APS Evaluations)

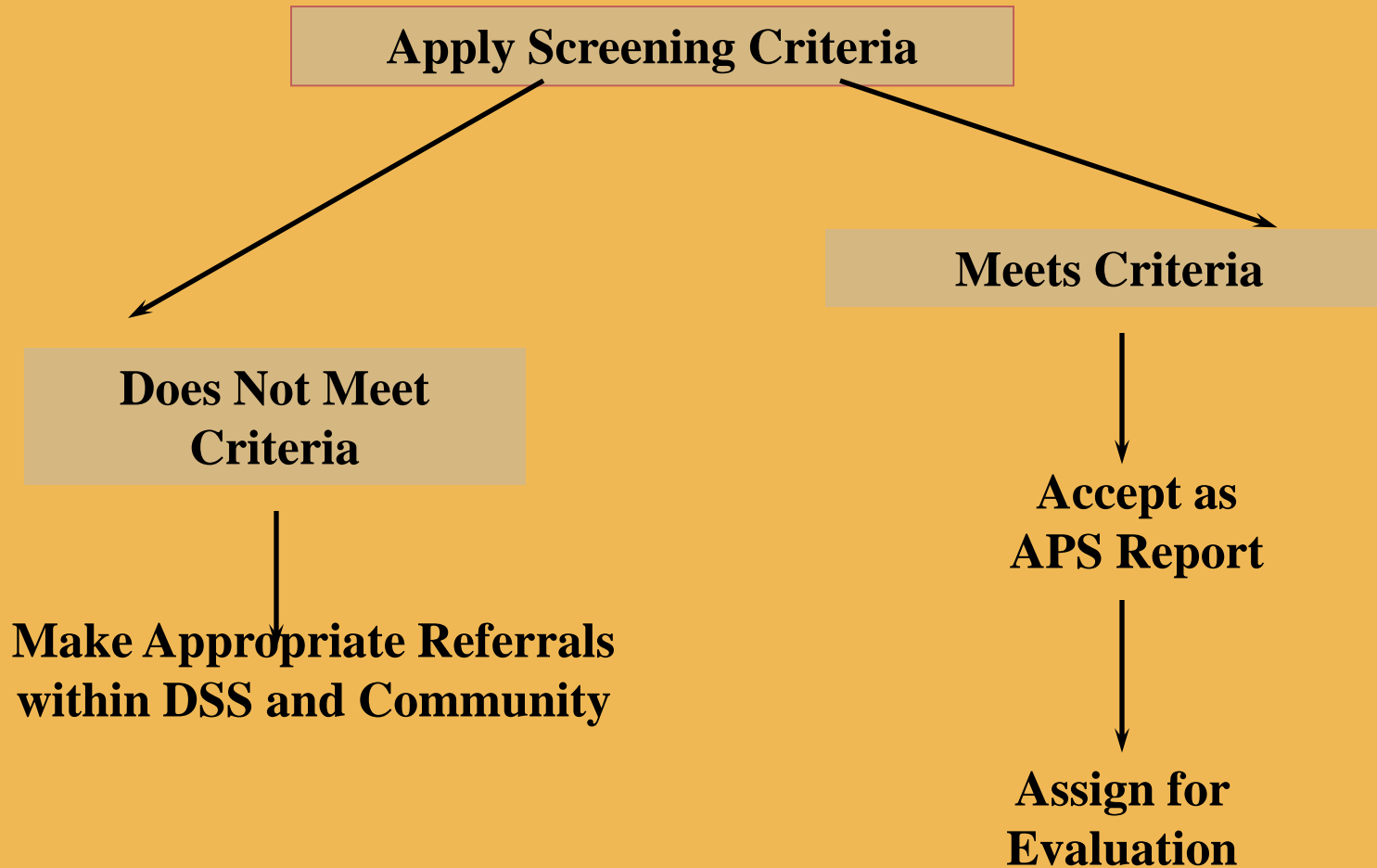
■ An APS report involving an emergency must be initiated within 24 hours.

■ 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.




Receive and Screen Referral



Case Decision

 **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.**

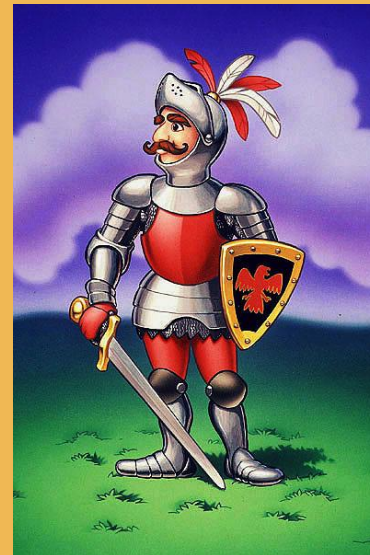
Contacting Law Enforcement

CALL AND MAKE A POLICE REPORT

ALL CALLS ARE SUPPOSED TO BE
RECORDED/DOCUMENTED AND
HAVE A CASE # ASSIGNED TO THEM
FOR FURTHER REFERENCE

Purpose Of Medicaid Investigation Unit

- Combat Fraud and Abuse by Providers in the Medicaid program
- They do not investigate Recipient Fraud



How Do We Take Our Advocacy To The Next Level

?



Collaboration Education and Training

- Strategic Alliances For Elders in Long Term Care Taskforce (S.A.F.E. in- LTC)
- Voiceless Victims
- Staying on the Right Side of the Law

Strategies for Involving Law Enforcement

- Make yourself known to the various branches of law enforcement that could potentially be called to the facility – Police, Sheriff, Probation, etc.
- Provide them with your contact information, *ie. phone #, email, service territory, etc.* and make sure it stays current
- Make a concerted effort to stay in contact with a key representative at least on a quarterly basis
- Offer to conduct training for them
- Invite them to trainings you conduct in the community or with other entities that have a stake in the welfare and protection of long term care residents

Law Enforcement Involvement

- Make them aware of what other entities are involved
 - Via phone or in writing (**not email**)
- Explain the role of regulatory agencies and other groups that may be involved
- Explain their areas of jurisdiction
 - Where their authority Starts and Stops



*Strategic Alliances For Elders
in Long Term Care*

*A multidisciplinary taskforce
dedicated to protecting residents
from harm*

Established- June 11, 2003

OLDER AMERICANS ACT OF 1965

121 Sec. 721
(AMENDED 2000)

MANDATE FOR THE LONG TERM CARE
OMBUDSMAN PROGRAM TO:

(8) Coordinate services with
State and local law
enforcement agencies and
courts of competent jurisdiction;

S.A.F.E. IN LTC

The Goal:

To educate and inform the public, providers and law enforcement agencies about:

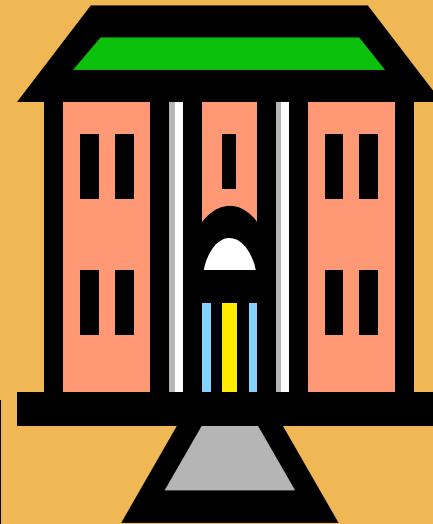
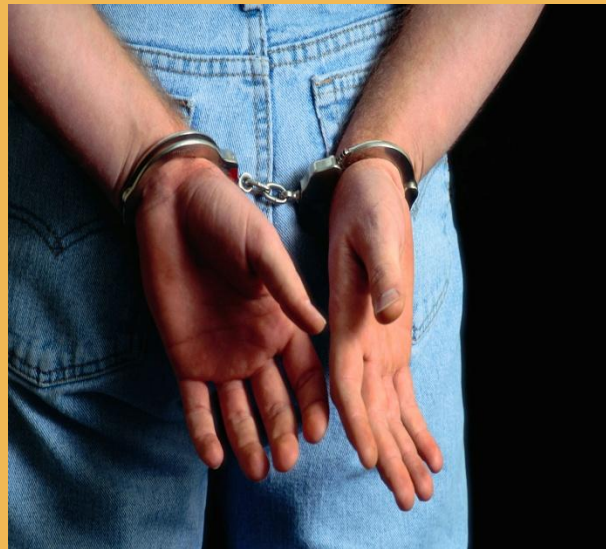
- Responding to crime when it occurs in a long term care setting, such as a nursing, adult or family care home.
- Recognizing the impact of crime on LTC residents



A Crime is A Crime No Matter Where It Occurs



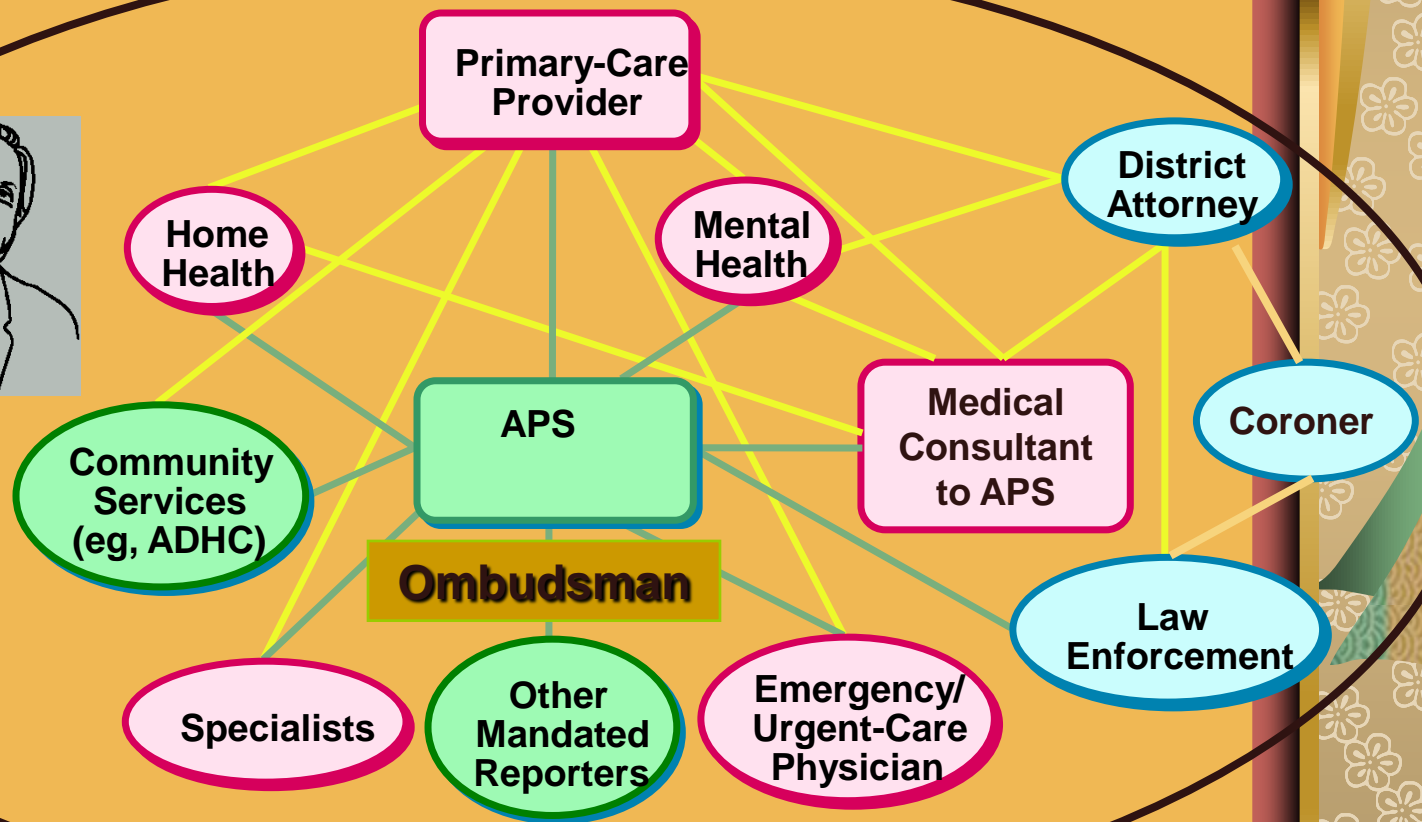
3888 Summer Berry Lane



Shady Oaks
Nursing & Rehab
Center

The Resident Who Is a Victim of Abuse

Collaborative Model



S.A.F.E. IN LTC

TASK FORCE MEMBERS

- N. C. Department of Health and Human Services
- N. C. Association of Area Agencies on Aging
- N. C. Association of Long Term Care Facilities
- N. C. Department of Justice
- N. C. Justice Academy
- Alzheimers North Carolina, Inc.
- Friends of Residents in Long Term Care
- N. C. Healthcare Facilities Association
- N. C. Regional LTC Ombudsman Association
- Wake County Sheriff's Office
- Raleigh and Durham Police Departments
- NC Medicaid Fraud Investigation Unit
- Hillside Nursing Center of Wake Forest

INVESTIGATING CRIMES IN LONG TERM CARE FACILITIES



“VOICELESS VICTIMS”

MODULES

- AGING OVERVIEW
- LONG TERM CARE FACILITIES
- MENTAL HEALTH
- ADULT PROTECTIVE SERVICES
- CRIMES AGAINST THE ELDERLY AND DISABLED
- LEGAL ISSUES AND DECISION MAKING
- HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)
- INTERVIEWING SPECIAL POPULATIONS
- FORENSIC INVESTIGATION OF SEXUAL ASSAULT
- PRACTICAL EXERCISE- LTC SITE VISIT



Statutory References

NCGS 108A- APS Statute

14-32.3 Domestic Abuse, Neglect

14-112.2 Exploitation of elders and
handicapped adults

14-32.1 Assault on Handicapped Person

14-32.2 Patient Abuse & Neglect

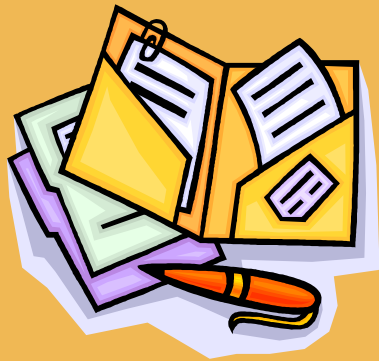
14-77 Larceny, Destruction of Wills

14-31 Assault in a secret manner

14-27.7 Sexual act by custodian

14-90 Embezzlement of property
received by virtue of employment

14-43.3 Felonious Restraint



Facility Records

Records you need to be aware of in a facility:

Resident /patient record
shift log
Progress notes
Current Care plans
FL2
MAR (medications)
Weight and nutrition log
Sign in/Sign out log
Behavioral log (DDA facilities)
Incident/accident reports
Staff schedules and time sheets
Personal Care log
Restraint log
ACH/CM (case mgrs. notes in an adult care home)

CAP/MR plan
CBI plan (group home)
Treatment plan
Physicians orders
PW for POA or legal Guardian
Diet orders
Staff job descriptions
Staff training log
Residents personal fund
Facility policies
Home Health notes



STAYING ON THE RIGHT SIDE OF THE LAW



**LAW ENFORCEMENT AND
LONG TERM CARE PROVIDERS TRAINING**

PURPOSE OF TRAINING

- EXPANSION OF VOICELESS VICTIMS
- INFO THAT HADN'T BEEN SHARED BEFORE FROM LE's PERSPECTIVE
- EDUCATING PROVIDERS ABOUT STATUTES THAT ONLY PERTAIN TO THEM
- NETWORKING AND RELATIONSHIP BLDG INTERNAL & EXTERNAL

PILOT TRAINING - 2011



- Law Enforcement Investigations in Long Term Care Facilities
- Adult Care and Nursing Home Administrators and Managerial Staff
- 35 representatives in attendance
- 4hr training
- ACH participants were eligible to receive 3.5 Continuing Education Credits

S.A.F.E. IN-LTC



For additional information contact:

Ombudsman Program Specialist –Tenesha Moore
Email: Tenesha.Moore@dhhs.nc.gov