This presentation was developed by the Mandated Reporter Workgroup of the Maine Council for Elder Abuse Prevention in collaboration with the Office of Aging and Disability Services.
The information provided in these materials is general information, may contain errors, and is not intended, or to be relied upon, as legal advice. While the information pertains in part to legal issues, it is not intended as a substitute for the particularized advice of your own counsel. Anyone seeking specific legal advice or assistance should retain an attorney.

This training is limited to mandated reporting requirements under the Adult Protective Services Act. It is not intended to cover other individual reporting requirements or those which might be associated with the agency for which an individual works.
OBJECTIVES

Participants will:

- Understand their legal obligation to report abuse, neglect, and exploitation of incapacitated and dependent adults.
- Identify the prevalence and scope of abuse, neglect, or exploitation of dependent or incapacitated adults in Maine.
- Understand the dynamics and the impact on individual victims and families.
- Describe what steps to follow in the case of suspected abuse, neglect, or exploitation.
Maine law states that certain people shall report immediately to the Department when the person knows or has reasonable cause to suspect that an incapacitated or dependent adult has been or is likely to be abused, neglected or exploited. 22 M.R.S. § 3477

The “Department” means Adult Protective Services in this case.
Mandated reporters include:

• An allopathic or osteopathic physician
• A medical resident or intern
• A medical examiner
• A physician's assistant
• A dentist, dental hygienist or dental assistant
• A chiropractor
• A podiatrist
• A registered or licensed practical nurse
• A certified nursing assistant

• A social worker
• A psychologist
• A pharmacist
• A physical therapist
• A speech therapist
• An occupational therapist
• A mental health professional
• A law enforcement official, corrections officer or other person holding a certification from the Maine Criminal Justice Academy
Mandated reporters also include:

- Emergency room personnel
- An ambulance attendant
- An emergency medical technician or other licensed medical service provider
- A humane agent employed by the Department of Agriculture, Conservation and Forestry
- A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications
- Unlicensed assistive personnel
- A sexual assault counselor
- A family or domestic violence victim advocate
- A naturopathic doctor
- A respiratory therapist
- A court-appointed guardian or conservator
- A chair of a professional licensing board that has jurisdiction over mandated reporters
Additional mandated reporters include the following, regardless of whether they are compensated in their role:

- Any person who has assumed full, intermittent or occasional responsibility for the care or custody of the incapacitated or dependent adult;

- Any person affiliated with a church or religious institution who serves in an administrative capacity or has otherwise assumed a position of trust or responsibility to the members of that church or religious institution, while acting in that capacity; and

- Any person providing transportation services as a volunteer or employee of an agency, business or other entity.
Being a mandated reporter means you are legally required to report the suspected abuse, neglect or exploitation of a dependent or incapacitated adult.
Incapacitated adult:

Any adult who is impaired by reason of mental illness, mental deficiency, physical illness or disability to the extent that that individual lacks sufficient understanding or capacity to:

- make or communicate responsible decisions concerning that individual’s person, or

- cannot effectively manage or apply that individual’s estate to necessary ends.
Dependent adult:

A dependent adult is someone who has a physical or mental condition that substantially impairs the person’s ability to adequately provide for that adult’s daily needs.

- This includes a resident of a nursing home or assisted living facility.
- This includes individuals who are eligible for Developmental Services, Brain Injury Services (including Section 18), and the Other Related Conditions Waiver (Section 20).
KEY POINTS RE: CAPACITY

- Adults are presumed to have capacity to give informed consent unless they are found not to have capacity by a Probate Court judge in a guardianship hearing.

- Informed consent is a decision made with all relevant information about an issue, with an understanding of the consequences of a decision, and without pressure or threats.

- Adults who have capacity have the right to make their own decisions regardless of how others view those decisions.

- Due to physical or mental impairment, dependent adults require the assistance of others to meet their daily needs.
Take a moment and write down a few things that might make a person more at risk for abuse.

Think about:

- Environment
- Individual
- Family dynamics
RISK FACTORS FOR ABUSE

- Social isolation
- Cognitive impairment
- History of family or sexual violence
- Mental state of the abuser (emotional, psychiatric, and substance abuse problems)
- Dependency of the abuser on the victim
- Dependency on others for care
ABUSE

- **What it is:**
The infliction of injury, unreasonable confinement, intimidation or cruel punishment that causes or might cause physical harm, pain, mental anguish, sexual abuse or sexual exploitation.

- Includes intentionally depriving someone of essential needs such as food and water or medication. Abuse includes both acts and omissions.

- It is common for an incapacitated or dependent adult to experience **more than one type of abuse at the same time or at different times.**
What it may look like: Physical Indicators

- Bruises from hitting, shoving, slapping, pinching, or kicking
- Bilateral injuries, or injuries on upper arms, face, neck or clustered on other body parts
- Burns caused by cigarettes or hot objects
- Friction from ropes, chains, or other physical restraints
- Injuries caused by biting, cutting, poking, punching, whipping or twisting of limbs
- Disorientation, stupor or other effects of deliberate overmedication
- Open wounds, cuts, punctures, and untreated injuries, and injuries in various stages of healing
- Person's report of being mistreated
- Abuse or neglect of pets in the home
What it may look like: Behavioral Indicators

- Easily frightened or fearful
- Exhibiting denial
- Agitated or trembling
- Hesitant to talk openly
- Implausible stories
- Extreme upset when assisted with bathing or other physical care giving
- Depression or poor self-esteem
- Eating disturbances
- Compulsive behavior
- Sleep disorders
- Inconsistency in how they describe events or accounts for injuries
- Family does not interact with client
- Marital or family discord
- Caregiver lacks knowledge of adult's condition and needed care
- Doctor or hospital hopping
- A person's sudden change in behavior
SEXUAL ABUSE OR EXPLOITATION

What it is: Non-consensual sexual contact or interaction.

What it may look like: Physical Indicators
- Bruises around the breast or genital area
- Unexplained venereal diseases or genital infection
- Unexplained vaginal or anal bleeding
- Torn, stained, or bloody underclothing
- Painful urination, defecation or sitting
- Difficulty walking or sitting
- A person's report of being sexually assaulted or raped
What it may look like: Behavioral Indicators

- Demonstrates inappropriate sex-role relationship
- Exhibits inappropriate, unusual, or aggressive sexual behavior
- Reveals extreme anxiety, including difficulty eating/sleeping, fearfulness, or compulsive behavior
- Exhibits agitation or anger
- Feels confused
- Symptoms of emotional disorders

Note: Some sexual contact is unlawful based on the relationship between the victim and the perpetrator. For example, an owner, operator, or employee of an organization serving a person with an intellectual disability or autism who engages in sexual contact with the person with an intellectual disability or autism may be guilty of unlawful sexual contact.
What it is: The illegal or improper use of an incapacitated or dependent adult’s resources for one’s profit or advantage.

What it may look like: Physical Indicators

- Unusual volume or type of banking activity,
- or activity inconsistent with victim's ability.
- Nonpayment of bills
- Eviction
- Care of the person is not consistent with the size of the estate
- Missing property or belongings
- Suspicious signatures on checks or other documents
- Caregiver has no means of support
- Signing blank checks
- Purchase of items that do not benefit older person, i.e. boats, sports equipment, or real estate
- Transfer of ownership of property to a "new friend" or relatives with little prior involvement in the elder person's life
- The person's report of financial exploitation
FINANCIAL EXPLOITATION CONT.

What it may look like: Behavioral Indicators

- Implausible explanations about his/her finances
- Unaware or doesn't understand financial arrangements
- Concerned or confused about missing funds from their account
- Abrupt changes in a will or other financial documents
- Change in spending habits
What it is: A threat to an adult’s health or welfare by physical or mental injury or impairment; deprivation of essential needs or lack of protection from deprivation. This also includes self-neglect.

What it may look like: Physical Indicators

- Dehydration
- Neglected bed sores
- Untreated injuries or medical problems
- Poor hygiene
- Hunger, malnutrition
- Pallor, or sunken eyes or cheeks
- Lack of clean bedding or clothing
- Lack of glasses, hearing aid, dentures, prosthetic device
- Skin disorder or rashes
- Lack of prescribed medication
- Person's report of being mistreated
What it may look like: Behavioral Indicators

- Unresponsiveness or helplessness
- Appears detached
- Exhibits hopelessness
- Expresses unrealistic expectations about his/her care
RED FLAGS FOR ABUSE

- Sudden **changes in appearance**: poor hygiene, dressed improperly for the weather, sunken eyes, bedsores, loss of weight.

- Sudden **changes in personality**: increased or unreasonable levels of anxiety, fearfulness and/or depression.

- The adult suddenly becomes **uncommunicative and unresponsive**.

- Sudden or swift decline in health: malnourishment or sudden loss of weight.
Visible injury that has not been cared for, or cannot be explained with a realistic explanation.

A change in routine, no longer attending events or participating in events enjoyed in the past.

Social isolation/ not allowed to visit alone.

Sudden loss of ability to meet financial obligations.

Going without things the adult needs or has always had in the past.

The adult states that they have had conflicts or problems with their caregiver and/or they use coded disclosures.
What Does it Mean to be a Mandated Reporter?

- Being a mandated reporter means you are legally required to report suspected abuse, neglect or exploitation of a dependent or incapacitated adult.

- If you are a mandated reporter under Maine law, you must file a report if:
  
  ✓ You become aware of suspected abuse or neglect while you are acting in a professional capacity, AND
  ✓ You have a reasonable cause to suspect a dependent or incapacitated adult has been or is likely to be abused, neglected or exploited.
CONCERNS: Prompt

Take a moment to write down some of your concerns:

- What are your concerns about being a mandated reporter?
- What could happen if you didn’t make a report?
CONCERNS ABOUT REPORTING

What if I’m wrong?

You do not need to be sure that abuse, neglect, or exploitation is occurring. You do not need to have witnessed abuse, neglect, or exploitation first-hand. You just need to suspect it. Trust your instincts.

A person making a report in good faith (a.k.a. believing what you report is true) is immune from any civil liability. 22 M.R.S. § 3479-A. **When in doubt make a report.**

What if I get fired?

By law, a supervisor or administrator of a person making a report may not impede or inhibit the reporting, and a person making a report may not be subject to any sanction for making a report. 22 M.R.S. § 3477.

Is it okay for me to release confidential client information to Adult Protective Services?

Yes – you are required by law to make a report. HIPAA contains exceptions that allow this reporting.
CONSEQUENCES OF NOT REPORTING

- Risk/further harm to incapacitated or dependent adult
- Licensing issues
- Fined up to $500
- Civil suit
RESPONDING TO DISCLOSURES: Prompt

Take a moment to think about how you might respond to someone who tells you they are being abused or neglected.

➢ What do you say?

➢ What do you do?
RESPONDING TO DISCLOSURES: DO’S

- Call 911 if the person is in immediate danger.
- Make sure the person is safe.
- Pay attention to the physical setting.
- Listen to what the person disclosing has to say.
- Ask for clarification on what you don’t understand.
- Assure the person that it is okay that they told you about the situation.
- Report any concerns regarding abuse, neglect, or exploitation to APS immediately.
When responding to a disclosure **do not:**

- Express disapproval of the situation.
- Mention consequences for the alleged offender.
- Promise to keep the disclosure a secret.
- Tell the alleged offender about the disclosure.
- “Investigate.” You have to **report** a suspicion of abuse, neglect, or exploitation.
I SUSPECT ABUSE, NEGLECT, OR EXPLOITATION
WHAT DO I DO?

➢ You do not need to investigate anything – that is APS’s job. The only thing you need in order to make a report is to “suspect” abuse, neglect, or exploitation.

➢ The law requires that you report directly to the Department of Health and Human Services to meet your legal obligations.

➢ The law provides that “a supervisor or administrator of a person making a report may not impede or inhibit the reporting, and a person making a report may not be subject to any sanction for making a report.”
If a supervisor or administrator penalizes or sanctions you for making a report, contact Adult Protective Services.
I SUSPECT ABUSE, NEGLECT, OR EXPLOITATION
WHAT DO I DO?

If you suspect abuse, neglect, or exploitation:

- Immediately file a report by calling APS Central Intake: 1-800-624-8404

The APS Central Intake line is staffed 24/7.
Mandated reporters cannot anonymously report.

- APS records are confidential.
- APS records may be disclosed to certain individuals required by law and reporter identity info will be removed from the records.
- APS may not be able to keep the identity of a reporter confidentiality if a judge orders APS to produce records. (This is uncommon)
When you call APS Central Intake, you may be asked:

- Why you think the adult may be dependent or incapacitated?
  - What you heard, observed, or know that shows the adult is dependent or incapacitated?
- Why you suspect abuse, neglect, or exploitation?
  - What you heard, observed, or know that causes you to suspect abuse, neglect, or exploitation
WHAT WILL BE INCLUDED IN THE REPORT?

Your report must contain:

- The adult’s name and address (if you know).
- Whatever information you have about the nature and extent of the suspect abuse, neglect, or exploitation.
- The source of the report.
- Your name, occupation, and contact information.
- Any other information that you think may be helpful.
WHAT WILL BE INCLUDED IN THE REPORT?

• Other information might include:
  – Any medical condition or health problems.
  – Is the person dependent on others and how?
  – Any concerns for the safety of the home?
  – Is there anyone providing supports or help?
  – The last time you had contact with the person.
WHAT HAPPENS NEXT?

After you make a report of abuse, neglect, or exploitation of an incapacitated or dependent adult to APS Central Intake:

- It is sent to a District Office supervisor for review and determination regarding the assignment.

- APS investigates.

- Services are arranged to keep the adult safe and allow as much personal freedom as possible.

- Reports are forwarded to the appropriate District Attorney’s Office/law enforcement.
WHAT IF...

- I make a report and it’s not abuse?
  If you have made a mandated report in good faith, you have what is called “immunity from liability.” This means that you cannot be held responsible for making a report where you suspected an adult might be in danger.

- ...if I don’t report?
  If you knowingly fail to report a situation where you suspected an adult might be in danger of abuse, neglect, or exploitation, you will be committing a civil violation where you may be prosecuted and fined up to $500. You may also be reported to your licensing board.

- Most importantly, someone who may be in danger may not get the help they need.
When in doubt... 

If you are in doubt, call APS!

If APS learns during an investigation that the adult is not incapacitated nor dependent, APS will refer the adult to another appropriate local resource.
Repeat Reporting

Even if the suspicious behavior is reported, victimization can continue. Why?

- Complex underlying relationships
- Dependent adult may refuse to admit that they are being abused
- Agencies cannot take action due to lack of evidence
- Repeat victimization

Report *every time* there is suspected abuse, neglect, or exploitation, even if you have called before.
WHAT OTHER RESOURCES ARE AVAILABLE?

Whether or not a case rises to the level of a mandated report, you can also make a referral as appropriate to:

Legal Services for the Elderly: 1-800-750-5353 or www.mainelse.org

Sexual Assault Support Centers: 1-800-871-7741 or www.mecasa.org

Domestic Violence Resource Centers: 1-866-83-4HELP or www.mcedv.org
CHILD PROTECTIVE
MANDATED REPORTERS

If your occupation is listed below, you are also required to report child abuse and neglect to Child Protective Services. CPS has different requirements for reporting.


- Allopathic or Osteopathic Physicians
- (CPS statute includes "resident or intern"),
- Medical Examiners, Physician's Assistants,
- Chiropractors, Podiatrists
- Dentists, Dental Hygienists, or Dental Assistants
- Registered or Licensed Practical Nurses
- Social Workers, Psychologists, Mental Health Professionals
- Sexual Assault Counselors, Family or
- Domestic Violence Victim Advocates
- Animal Control Officers (Permitted Reporters)
- Chairs of Professional Licensing Boards (that have jurisdiction over mandated reporters)
- Anyone affiliated with a church or religious institution who serves in an administrative capacity or has otherwise assumed a position of trust or responsibility to the members of the church or religious institution, while acting in the capacity, regardless of whether they receive compensation
- Any person who has assumed full, intermittent, or occasional responsibility for the care of custody of the child / incapacitated adult/dependent adult, regardless of whether the person receives compensation
Please click the link below to receive a certificate:


Thank you