**Elder Abuse Reduction   
Curricular Resource:**An Instructor’s Guide for Teaching Core Competencies   
in Elder Abuse Prevention, Detection and Response   
in British Columbia

**For Entry-To-Practice, Continuing Education And Professional Development Courses Across Sectors In British Columbia.**

*To be used in conjunction with The Elder Abuse Reduction Presentation*

October 2014

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### Table of Contents

About These Materials 6

About BCcampus 6

Project Background and Purpose 6

Project Collaborators 8

Resource Contributors 8

Content Contributors 9

Using These Materials 10

Resource Date 10

Open Educational Resource (OER) 10

Description of Materials 12

Core Competency Framework 12

Curricular Resource 12

Lesson Planning 12

Videos 13

Readings 13

Additional Online Resources 13

Introduction 14

Description 14

Instructional Time 14

Opening Activity - Discuss Reasons to Care 15

Opening Activity - View Video and Discuss Need for Change 16

Opening Activity - View Videos and Discuss What Constitutes Abuse 17

Competency 1: Prepare 18

Description 18

Learning Outcomes 18

Overview 18

Readings 18

Instructional Time 18

Activity for Learning Outcomes 1.1, 1.2, 1.3 19

Activity for Learning Outcomes 1.4, 1.4.1, 1.4.2, 1.5 21

Activity for Learning Outcome 1.6 23

Activity for Learning Outcome 1.6.1 24

Activity for Learning Outcome 1.7 25

Prepare: Assignment 26

Prepare: Questions 26

Competency 2: Recognize 29

Description 29

Learning Outcomes 29

Overview 29

Readings 29

Instructional Time 29

Activity for Learning Outcome 2.1 30

Activity for Learning Outcome 2.1.1 31

Activity for Learning Outcomes 2.2, 2.2.1, 2.2.2, 2.2.3, 2.2.4, 2.2.5, 2.2.6 32

Activity for Learning Outcome 2.3 34

Recognize: Assignment 35

Recognize: Questions 35

Competency 3: Prevent 36

Description 36

Learning Outcomes 36

Overview 36

Readings 37

Instructional Time 37

Activity for Learning Outcome 3.1 38

Activity for Learning Outcomes 3.2, 3.2.1, 3.2.2 40

Activity for Learning Outcome 3.3 42

Activity for Learning Outcomes 3.4, 3.5, 3.5.2, 3.6 43

Activity for Learning Outcome 3.5.1 45

Activity for Learning Outcomes 3.7, 3.7.1, 3.7.3 46

Activity for Learning Outcome 3.7.2 47

Activity for Learning Outcome 3.7.4 48

Prevent: Assignment 49

Prevent: Questions 49

Competency 4: Respond 50

Description 50

Learning Outcomes 50

Overview 50

Readings 51

Instructional Time 51

Activity for Learning Outcome 4.1 52

Activity for Learning Outcomes 4.2, 4.2.1, 4.2.2, 4.3 54

Activity for Learning Outcomes 4.4, 4.4.1 56

Activity for Learning Outcomes 4.5, 4.5.1 57

Activity for Learning Outcome 4.6 58

Case Study: Mrs. L 60

Activity for Learning Outcome 4.6.1 62

Respond: Assignment 63

Respond: Questions 63

Appendix 1: Core Competency Framework 64

Appendix 2: Open Videos and Content 66

Open Videos 66

Open Content 71

Debriefing Notes for Videos from Western Education, Centre for Research and Education on Violence Against Women and Children (It’s Not Right! Neighbours, Friends and Families for Older Adults) 72

Appendix 3: Readings 80

Definitions of Elder Abuse and Neglect: What Are They and Why Do They Matter? 80

Considering Culture and Cultural Care 88

Applying the Principles of Cultural Competence and Cultural Safety in Working with Aboriginal Older Adults 91

Background to Prevention 96

Resources for Prevention 99

Response Resources for Professional Practice 103

What Laws Apply to Elder Abuse and Neglect? 107

The *Adult Guardianship Act*—Guiding Principles 119

Mental Capacity and Consent 126

Supportive and Substitute Decision-Making in BC 133

How to Assist an Adult Who Is Abused, Neglected or Self-Neglecting: A Decision Tree for Effective Referrals for Adults in BC Who May Be Vulnerable and/or Incapable 140

Privacy Laws 143

Obligations to Respond 152

# About These Materials

The Elder Abuse Reduction Curricular Resource consists of an instructor’s guide and a presentation for teaching core competencies in elder abuse prevention, detection and response in British Columbia. Within the guide, instructors will find activities, assignments, online video links, readings and evaluation questions, as well as references to additional resources for some topic areas.

These materials were developed and assembled in 2014 by BCcampus as part of the Elder Abuse Reduction Education Project. This project was sponsored by the Ministry of Advanced Education in response to Together to Reduce Elder Abuse ̶ B.C.’s Strategy: Promoting Well-Being and Security for Older British Columbians.

## About BCcampus

BCcampus is a publicly funded organization that provides consulting, collaborative leadership and support for innovation in the post-secondary system in British Columbia. The BCcampus service-based collaboration model has been adopted to develop, implement and operate higher-level multi-institutional, multi-stakeholder, or multi-organizational collaborative initiatives or projects.

Michelle Glubke, Manager, BCcampus provided collaborative leadership for this project.

## Project Background and Purpose

### TREA Strategy

In an effort to foster a cultural and attitudinal shift that will support efforts to reduce elder abuse in our communities, the Together to Reduce Elder Abuse ̶ B.C.’s Strategy (TREA Strategy) identifies the need to strengthen elder abuse prevention, detection and response. Through an increase and enhancement of education and training across sectors, the goal is to improve the ability to recognize abuse and take appropriate action.

### The Elder Abuse Reduction Education Project

The Elder Abuse Reduction Education Project was designed to support the government’s commitment to provide education for, and train individuals to respond effectively to, and protect against, elder abuse. A robust environmental scan identified the need for a core competency profile for elder abuse prevention, detection and response for entry-to-practice, continuing education and professional development across sectors. The result was this guide and an associated presentation, together known as the Elder Abuse Reduction Curricular Resource.

### Cross-Sector Applicability

The Elder Abuse Reduction Curricular Resource is designed to meet core competencies across, but not limited to, the following sectors: health care, financial, legal and social. Because of the variety of professions and roles represented across these sectors, the resources cannot include everything instructors will need to prepare practitioners in their areas; some necessary content will be specific to particular institutions and professions. The guide notes where additional content is required to adequately assist learners in developing a competency in a given area.

### Considering Culture

The Advisory and Working Groups discussed how best to use a multicultural approach from the beginning of the project. Culture is complex and this resource attempts to introduce this complexity at the outset. There is no single approach that covers the multiplicity of values, beliefs, religions and practices that are significant to individuals. What this resource attempts to do is offer an opportunity to discuss and include the important message to new learners and practitioners that culture is both dynamic and complex, and that recognizing, preventing and responding to the abuse and neglect of older adults also occurs within a range of cultural contexts.

It was decided that the entire resource, as well as specific sections, needed to address cultural care. The approach included in the reading for Competency 1, Considering Culture and Cultural Care, describes a continuum of responses to cultural difference that goes from cultural awareness, to cultural sensitivity, cultural competence and cultural safety. Instructors are encouraged to apply these understandings as they cover the material in this resource. Instructors are encouraged to remind students throughout their delivery of the materials that the older adult population is heterogeneous; and an individual’s experiences throughout life informs one’s understanding, expectations and needs. Older adults represent all the variety possible in the human experience. They may be lesbians, gay or transgendered; they may be members of visible minorities; they may be from cultural backgrounds that are collective or individualistic in nature. Awareness and appreciation of this diversity enhances the work of practitioners in all fields.

### A Note on Language

Throughout this resource, the terms “older adult experiencing abuse” and “individual acting abusively” are used. These terms recognize the agency of both individuals in this situation. Instructors using this resource are encouraged to use these terms. They are cautioned to avoid the term “victim” as a description of an individual experiencing abuse. Such language tends to disempower older adults and support ageist assumptions.

The use of the term “elder” in the title of this resource refers in general to a person of advanced age rather than to an “elder” in the sense used in Aboriginal communities. In most cases, the term “older adult” is used in this resource to describe those over the age of 65. There are some cases, however, where the term “elder” is used as it would be within Aboriginal culture.

This resource defines “abuse,” “neglect” and “self-neglect” based on language in BC’s *Adult Guardianship Act,* as outlined in materials for Competency 1. Self-neglect is not discussed in detail in this resource.

### A Note on Emotional Response

Instructors should be aware that some individuals may respond to content, particularly videos, with strong emotion. If possible, before you begin instruction, be aware of options for support for participants if necessary (for example, counselling services or Employee Assistance Programs).

## Project Collaborators

A special thanks to the following government ministries, agencies and organizations (all in BC, unless otherwise noted) for contributing expertise, advisement and support:

* Ministry of Advanced Education
  + Research Universities, International Education and Health Programs Branch
* Ministry of Health
  + Seniors’ Health Promotion Directorate
  + Workforce Planning Division
  + Aboriginal Health Living Branch
* Ministry of Justice
  + Community Safety and Crime Prevention
* Ministry of Aboriginal Relations and Reconciliation
* Intergovernmental and Community Relations Branch
* Ministry of Children and Family Development
  + Provincial Office of Domestic Violence
* BC Association of Community Response Networks
* BC Centre for Elder Advocacy and Support
* Canadian Centre for Elder Law
* Justice Institute of BC
  + Centre for Counselling and Community Safety, School of Health, Community and Social Justice
* Public Guardian and Trustee of British Columbia
* Qmunity - BC’s Queer Resource Centre
* Vancouver Coastal Health
  + ReAct Adult Protection Program
* Vancouver and Lower Mainland Multicultural Family Services Society

## Resource Contributors

The following organizations agreed to openly license existing content or videos, all curated from a robust environmental scan and recognized for quality and applicability within the core competency framework of this resource, under a Creative Commons license:

* Collaboration between Public Guardian and Trustee of BC, RCMP and Fraser Health
  + To create a decision tree document and videos (How to Assist an Adult Who is Abused, Neglected or Self Neglecting – A Decision Tree for Effective Referrals for Adults in BC Who May be Vulnerable and /or Incapable)
* Elder Abuse Ontario (formerly Ontario Network for the Prevention of Elder Abuse)
* ReAct Adult Protection Program
* Vancouver and Lower Mainland Multicultural Family Support Service Society
* Western University, Centre for Education and Research on Violence Against Women and Children, Neighbours, Friends and Families

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## Content Contributors

**Kathleen Cunningham,** BComm, LLB, MPS, TEP, is the Manager of Legal and Legislative Projects at the Public Guardian and Trustee of BC. She led the initial project at the Public Guardian and Trustee to develop the two-page tool How to Assist an Adult Who Is Abused, Neglected or Self-Neglecting, also known as the Decision Tree. In her personal capacity as a writer and educator, she completed the environmental scan of current post-secondary educational resources that informed the development of this resource.

**Krista James** BA, LLB, is the National Director of the Canadian Centre for Elder Law and a staff lawyer at the British Columbia Law Institute. She contributed content related to legal concepts and legal rights and responsibilities, and prepared several of the readings for this resource.

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**Alison Leaney** MSW, RSW is the Provincial Coordinator of Vulnerable Adults Community Response at the Public Guardian and Trustee of BC. She provided some content related to community engagement and co-ordinated the contribution of How to Assist an Adult Who Is Abused, Neglected or Self-Neglecting, a two-page tool also known as the Decision Tree.

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**Mary Wilson, BA, MA, PhD,** is an instructional designer and consultant working in curriculum planning, development and review for adult learners. She co-ordinated content development, developed the presentation and wrote the lesson plans in the guide.

**So Han Yip**, MSW, RSW, is a Clinical Practice Consultant in Professional Practice at Fraser Health. She was the educator for the ReAct Curriculum on adult abuse and neglect for designated responders in Fraser Health.   As an independent consultant, she provided subject matter expertise and assisted in the completion of the environmental scan of current post-secondary educational resources that informed the development of this resource.

# Using These Materials

## Resource Date

Materials are current as of October 2014. Because legislation changes over time, instructors are encouraged to ensure that Acts are current by checking appropriate legislation.

The reading in Appendix 3 titled “How to Assist an Adult Who is Abused, Neglected or Self-Neglecting: A Decision Tree for Effective Referrals for Adults in BC who may be Vulnerable and/or Incapable” is current for 2014. In the future, instructors are encouraged to visit the Public Guardian and Trustee of BC website to determine if this document has been revised before sharing with learners (http://www.trustee.bc.ca/Pages/contact-us.aspx).

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### Intended Purpose

The intended purpose of these materials is for elder abuse reduction education. If the material is not used for this purpose, the copyright holder does not take responsibility or ownership of any adapted content and attribution should not be provided.

# Description of Materials

## Core Competency Framework

The organizing principle underlying the guide and the presentation is a core competency framework with four high-level competencies:

1. Prepare
2. Recognize
3. Prevent
4. Respond

Each of the four competencies has nested learning outcomes following a numeric code used throughout the guide and the presentation. Lesson plans and materials are provided for all competencies at a basic, or core, level. For some topic areas, optional additional activities and resources are included, allowing for a deeper exploration of the content.

The Core Competency Framework is included in Appendix 1.

## Curricular Resource

The Elder Abuse Reduction Curricular Resource consists of:

* An instructor’s guide
* A PowerPoint presentation

The resource is not a prepared course, nor is it designed to be a self-study module. Instructors will need to select content for instruction, and in some cases add content specific to the group they are teaching. Lesson plans for face-to-face delivery are provided, but content may be used for online courses and blended learning. In face-to-face courses, instructors will require a projector and screen for sharing the presentation, and an Internet connection for sharing the videos.

## Lesson Planning

The guide follows the numbered competency framework and presents lesson plans associated with learning outcomes within each of the four competencies. Each lesson plan identifies resources required for delivery. All links, notes and time guidelines are provided in the guide. Instructors may wish to customize the presentation by adding speakers’ notes.

Six to eight hours will be needed to complete the lessons for all competencies.

* Introduction: 15-60 minutes
* Competency 1: 85-115 minutes
* Competency 2: 50-65 minutes
* Competency 3: 105-155 minutes
* Competency 4:100-130 minutes

Lesson plans include suggested ways to present materials and can be adapted as required. Evaluation components are also provided for most lessons. These include assignments and questions (open-ended, multiple-choice and true/false) with suggested responses. Questions are listed by learning outcome.

For some competencies, more advanced or specialized material is included in the optional resources section for each lesson.

The presentation includes orange-banded title slides introducing each learning outcome within the numbered competency framework.

View the slide set in the Slide Sorter view to easily see and select competencies and learning outcomes. The presentation provides high-level content summaries only, while the guide provides detailed suggestions on ways to present, discuss and evaluate the material. The Guide references slide numbers for instructor convenience.

## Videos

Videos described in this resource are provided courtesy of several organizations that adopted Creative Commons licenses during the project. See Appendix 2 for the complete list of videos, with their sources, descriptions and Creative Commons licensing detail. Note that guidance for debriefing some of the videos is also included in Appendix 2.

Videos can be found online in a YouTube channel: <https://www.youtube.com/playlist?list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF>

Links to individual videos are provided in Appendix 2.

## Readings

Readings for all competencies are provided in Appendix 3. Suggestions for using these and other readings that can be found online are included in the lesson plans. With the exception of material from the Public Guardian and Trustee of BC (How to Assist an Adult Who Is Abused, Neglected or Self-Neglecting: A Decision Tree for Effective Referrals for Adults in BC Who May Be Vulnerable and/or Incapable) all readings in Appendix 3 were developed specifically for this resource.

## Additional Online Resources

There are many additional resources in the area of elder abuse prevention available online. Some of these resources are named in the lesson plans associated with specific learning outcomes.

# Introduction

## Description

The introduction is intended to focus the attention of participants on the issue of abuse and neglect experienced by older adults. Instructors may choose one or more of the three activities provided, based on the needs of their group.

## Instructional Time

Each activity requires 15 - 20 minutes to execute.

|  |  |
| --- | --- |
| Introduction | |
| Opening Activity - Discuss Reasons to Care | |
| Description | Why care about abuse, neglect and self-neglect? |
| Purpose | * Introduce the topic * Introduce the TREA Strategy * Help participants begin to think of the complexity of the issue |
| Resources | * Slides 2-5 * Together to Reduce Elder Abuse - BC’s Strategy: Promoting Well-Being and Security for Older British Columbians (<http://www2.gov.bc.ca/gov/DownloadAsset?assetId=A272C645C0BE4BC69FD41DC0EB0CCC2F>) |
| Time | * 15-20 minutes |
| The Activity | |
| Introduction | * Explain purpose of the activity: To begin thinking about abuse of older adults and the complexity of the situation of older adults experiencing abuse and those acting abusively toward them * Provide additional information about the TREA strategy if you wish |
| Execution | * Show Slides 3-5 * Discuss: Why is it that not all of those who abuse older adults recognize their own abusive behaviour? Why do some older adults not recognize what happens to them as abuse? |
| Debriefing | * Consider explaining what the group will be discussing in other lessons, including specific professional requirements |
| Evaluation | * None needed |
| Optional additional activities and resources | * None needed |

|  |  |
| --- | --- |
| Introduction | |
| Opening Activity - View Video and Discuss Need for Change | |
| Description | “We need a seismic shift in our attitudes…” |
| Purpose | * Encourage participants to think of abuse of older adults as something that has an impact in many/all communities, and as something that may have complex, multi-generational roots |
| Resources | * Slide 6 * Video (Appendix 2): Dr. Chief Robert Joseph (Length: 2:00) |
| Time | * 15-20 minutes |
| The Activity | |
| Introduction | * Explain purpose of the activity: To begin thinking about abuse of older adults and the complexity of abuse of older adults * Provide additional information about the TREA strategy if you wish |
| Execution | * Show Slide 6 * Show the video, Dr. Chief Robert Joseph * Discuss the points raised by Chief Joseph, Hereditary Chief of the Gwawaenuk First Nation in BC, who speaks about the prevalence and possible causes of abuse of elders in First Nations communities - points that are relevant in the First Nations context and elsewhere * Consider important social barriers and relational issues that impact elder abuse, neglect and self-neglect * Significant point: We need a shift in people’s attitudes to reduce/eliminate abuse of older adults * Significant point: Abuse of elders emerges from a pattern within culture, in this case from the disruption of First Nations culture and distortion/decline in the role of the elder and in interactions with family members |
| Debriefing | * Consider introducing all four competencies * Consider introducing the idea of cultural competence |
| Evaluation | * None needed |
| Optional additional activities and resources | * Together to Reduce Elder Abuse ̶ BC’s Strategy: Promoting Well-Being and Security for Older British Columbians (<http://www2.gov.bc.ca/gov/DownloadAsset?assetId=A272C645C0BE4BC69FD41DC0EB0CCC2F>) |

|  |  |
| --- | --- |
| Introduction | |
| Opening Activity - View Videos and Discuss What Constitutes Abuse | |
| Description | Examples of abusive behaviour |
| Purpose | * Demonstrate the variety of abusive behaviours older adults may experience * Focus participants’ attention on the seriousness of the issue |
| Resources | * Video (Appendix 2): Under the Bed (Length: 31 seconds) * Video (Appendix 2): Cane (Length: 31 seconds) * Video (Appendix 2): Grocery Delivery (Length: 31 seconds) |
| Time | * 15-20 minutes |
| The Activity | |
| Introduction | * Explain purpose of the activity: To begin to identify the range of behaviours that constitute abuse |
| Execution | * Show the videos and give participants an opportunity to discuss each one * Ask participants to name/describe the behaviours that constitute abuse in each video |
| Debriefing | * Consider introducing the general idea of abuse experienced by older adults |
| Evaluation | * None needed |
| Optional additional activities and resources | * Together to Reduce Elder Abuse ̶ BC’s Strategy: Promoting Well-Being and Security for Older British Columbians (<http://www2.gov.bc.ca/gov/DownloadAsset?assetId=A272C645C0BE4BC69FD41DC0EB0CCC2F>) |

# Competency 1: Prepare

## Description

Understand that elder abuse and neglect, and self-neglect, exist in cultural contexts; appreciate one’s own and others’ perspectives.

## Learning Outcomes

* 1. Define abuse
  2. Define neglect
  3. Define self-neglect
  4. Explain the significance of cultural competence in responding to elder abuse, neglect and self-neglect

1.4.1 Recognize the role of culture in the aging process

1.4.2 Recognize diversity in the experience of aging as a function of cultural, social, racial/ethnic and other identities, and individual variability

* 1. Explain the significance of cultural safety in responding to elder abuse, neglect and self-neglect
  2. Demonstrate awareness of different theories used to understand abuse, neglect and self-neglect

1.6.1 Describe the causes, indicators and consequences of abuse and neglect of older adults

1.7 Analyze the role of ageism in societal and personal views of elder abuse, neglect and self-neglect

## Overview

Competency 1 is focused on developing participants’ understanding of abuse, neglect and self-neglect of older adults in a cultural context. Specifically, content includes:

* Definitions
* Discussion of the importance of culture and the impact of diverse life experiences on the experience of aging
* Discussion of the importance of cultural competency and safety in responding to these issues
* Identification of theories that have been found useful in analysing abuse, neglect and self-neglect
* Exploration of the impact of ageism

## Readings

* Definitions of Elder Abuse and Neglect: What Are They and Why Do They Matter?
* Considering Culture and Cultural Care
* Applying the Principles of Cultural Competence and Cultural Safety

## Instructional Time

From 85 - 115 minutes are required if all core activities are included. Time estimates do not include optional additional activities.

|  |  |
| --- | --- |
| Competency 1 Prepare | |
| Activity for Learning Outcomes 1.1, 1.2, 1.3 | |
| Description | Define abuse, neglect and self-neglect |
| Purpose | * Ensure shared understanding of abuse, neglect and self-neglect |
| Resources | * Slides 8-15 |
| Time | * 15 minutes |
| The Activity | |
| Introduction | * Show Slide 9 and ask participants to discuss why it is important to have a shared definition of what constitutes abuse, neglect and self-neglect: * Shared definitions help to ensure effective communication, particularly in multidisciplinary/multi-profession settings * Clear, shared definitions help everyone identify problems * Legal definitions help determine what legislation covers, determines who is eligible for services, determines types of treatment offered, etc. |
| Execution | * Discuss definition of abuse, including the Toronto Declaration definition of neglect and the definition of abuse based on BC adult guardianship legislation * Ask participants to work together on a list of examples of potential abuse and neglect * Ask participants to consider which aspects of the BC definitions the Toronto Declaration definition includes and which it excludes |
| Debriefing | * Remind participants that there are other definitions, including non-legal definitions, in general use * Remind participants that the abuse and neglect of older adults is a global phenomenon – hence involvement from the World Health Organization – not limited to British Columbia, nor to specific communities |
| Evaluation | * See Prepare: Questions section (note that questions may not be needed as the definitions are provided throughout Competency 1) |
| Optional additional activities and resources | * Reading (Appendix 3), Definitions of Elder Abuse and Neglect: What Are They and Why Do They Matter? includes additional information and activities: * Section 1.3 provides a brief section on Community Care and Assisted Living in BC explaining definitions of abuse applied in community care facilities and the legal responsibilities of operators of these facilities to report such abuse. * Section 1.4 provides a broader discussion of criminal offences related to elder abuse * Section 1.5 provides comparisons between BC law and the law of other provinces and territories |

|  |  |
| --- | --- |
| Competency 1 Prepare | |
| Activity for Learning Outcomes 1.4, 1.4.1, 1.4.2, 1.5 | |
| Description | Explain the significance of culture, cultural competence and cultural safety in responding to abuse, neglect and self-neglect of older adults |
| Purpose | * Introduce the ideas of cultural care as a continuum * Explore diversity in the experience of aging * Recognize the role of culture in the aging process * Explore ways in which cultural competence and cultural safety may apply in situations of abuse and neglect |
| Resources | * Slides 16-24 * Reading (Appendix 3): Considering Culture and Cultural Care * Videos (Appendix 2): Alone at Mom’s and Alone at Mom’s Response (Length: 2:01 plus 1:04) * Video (Appendix 2): Dr. Calliou (Length: 7:38) |
| Time | * 30-60 minutes (you can reduce class time or allow more time for discussion by having participants complete the reading in advance) |
| The Activity | |
| Introduction | * Remind participants that the population of individuals over age 65 addressed in the TREA Strategy represents a large, diverse group of people from many different backgrounds and with many different expectations of what it means to grow old * Explain that now they will consider some of the impacts of culture on expectations of aging and the roles of older adults |
| Execution | * Discuss diversity in aging * Ask participants to list expectations for aging – ideas they hold themselves, ideas from the media, etc. * Encourage them to include expectations that they feel are specific within their own culture * Once you have a short list, ask participants (together, in pairs or in small groups) to think of older adults they know who do or do not match the expectation * Discuss the reading, Considering Culture and Cultural Care * Show Slides 22-24 for definitions drawn from reading and questions related to the videos * Show the video, Alone at Mom’s * Ask participants to work together to list all the cultural assumptions they notice in the video, which may include: * Individuals (family members) are expected to take care of elders independently or elders are expected to live independently (the video is set in a home where the mother appears to live alone, home/furniture appear valuable) * Women more than men are responsible for care of elders * Older adults are likely to “not want to be a burden” * Agencies (such as the health care system, the bank, others) may not recognize older adults’ changing circumstances (e.g. the bank phoned and seemed to suspect financial abuse, since the daughter had helped her mother write a cheque; in response to the visiting nurse’s visit the daughter felt criticized rather than supported) * Show the follow-up video, Alone at Mom’s Response * Ask participants to consider the role taken by the friend on the phone at the end of the video: * Do you think the woman on the phone shares a similar cultural background to the main characters? Why? * To what extent does the friend’s input reflect cultural care? * Is the issue of “cultural care” significant if you and the person you are speaking to share a culture? * Show the video, Dr. Calliou, in which Dr. Sherilyn Calliou speaks about one specific experience with an Aboriginal Elder and then speaks more broadly about Aboriginal women * Ask participants to list the cultural factors they should be aware of in interacting with the woman described in their professional roles |
| Debriefing | * Return to the reading, Considering Culture and Cultural Care * See if participants have other points to add to the discussion, based on their viewing of the videos * Ask participants to consider and discuss ways in which the ideas of cultural awareness, sensitivity, competence and safety apply to their work |
| Evaluation | * See Prepare: Questions section |
| Optional additional activities and resources | * Reading (Appendix 3), Applying the Principles of Cultural Competence and Cultural Safety: Provides more background on the experience of older Aboriginal adults * Health Professionals Working With First Nations, Inuit, and Métis Consensus Guideline (<http://sogc.org/wp-content/uploads/2013/06/gui293CPG1306E.pdf>): Provides excellent guidelines that are valuable for anyone working with Aboriginal people * Being Least Intrusive: An Orientation to Practice for Front-Line Workers Responding to Abuse of Aboriginal Older Adults (<http://www.nicenet.ca/tools-bli-being-least-intrusive-an-orientation-to-practice-for-front-line-workers-responding-to-abuse-of-aboriginal-older-adults>): Describes a way to respond to abuse that “ensures safety, protects dignity and encourages empowerment” |

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| Competency 1 Prepare | |
| Activity for Learning Outcome 1.6 | |
| Description | Demonstrate awareness of different theories used to understand abuse, neglect and self-neglect |
| Purpose | * Encourage participants to value theory as a way of considering possible origins of abuse and neglect * Encourage participants to value theory as a lens through which situations can be considered |
| Resources | * Slides 25-33 |
| Time | * 20 minutes |
| The Activity | |
| Introduction | * Show Slides 26 and discuss the value of theory with participants |
| Execution | * Show Slide 27 and introduce case study * Explain to participants they will consider four theories that have been used to examine abuse and neglect of older adults * For each theory, ask participants to think about the factors someone using that theory would want to examine when thinking about the case study * Show Slides 28-32 and encourage discussion * Review “factors to consider” listed in the second bullet on each slide (note that list provided is not exhaustive and participants may identify others) |
| Debriefing | * Remind participants that theory should not be blindly applied, but also not blindly rejected * Remind participants that there is no single generally accepted theory that explains why abuse and neglect occur * Show Slide 33 and discuss the value of theory as a basis for development of prevention and response strategies |
| Evaluation | * See Prepare: Questions section |
| Optional additional activities and resources | * Employment and Social Development Canada Elder Abuse Modules (<http://www.esdc.gc.ca/eng/seniors/funding/pancanadian/elder_abuse.shtml>): Includes theories of abuse and neglect and lists several articles that address theories of the abuse and neglect of older adults |

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| Competency 1 Prepare | |
| Activity for Learning Outcome 1.6.1 | |
| Description | Describe the causes, indicators and consequences of abuse, neglect and self-neglect |
| Purpose | * Encourage participants to see abuse and neglect as complex, multi-faceted issues that have a broad impact |
| Resources | * Slides 34-37 |
| Time | * 5 minutes |
| The Activity | |
| Introduction | * Explain to participants that it is important for everyone to recognize that there is not just one cause of abuse and neglect – and it is not just one person “being mean” to another |
| Execution | * Show slides 35-37 |
| Debriefing | * Discuss ways in which abuse and neglect can have an impact in the field where your participants work or will be working |
| Evaluation | * See Prepare: Questions section |
| Optional additional activities and resources | * If there are particular consequences related to the abuse and neglect of older adults in your field, this is an ideal time to discuss them |

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| Competency 1 Prepare | |
| Activity for Learning Outcome 1.7 | |
| Description | Analyze the role of ageism in societal and personal views of elder abuse, neglect and self-neglect |
| Purpose | * Ensure participants are aware of the idea of ageism, and are prepared to watch for it occurring in their own practice |
| Resources | * Slides 38-44 |
| Time | * 15 minutes |
| The Activity | |
| Introduction | * Define the word “ageism” |
| Execution | * Show Slides 39-44 and discuss definitions of ageism * Show Slide 44 and ask participants to reflect on their own observation of ageism in their field or elsewhere (note that for an entry-to-practice group, you may need to provide more guidance in thinking about the field) |
| Debriefing | * Consider the final statement on Slide 44: Ageism assumes older adults are “less than,” and can contribute to acceptance of abuse and neglect * Ask participants to share views on this statement * Encourage participants to contrast ageist assumptions with traditional assumptions of the wisdom of elders common in some cultures |
| Evaluation | * See Prepare: Questions section |
| Optional additional activities and resources | * Video (Appendix 3), Dr. Calliou: (Length: 7:38) Provides an analysis of abuse from a variety of institutional sources; would make an excellent discussion-starter in the conversation about the impact of ageism and other forms of social discrimination * Ageism and the Law: Emerging Concepts and Practices in Housing and Health (<http://www.lco-cdo.org/en/older-adults-lco-funded-papers-charmaine-spencer>): Would be of particular value for those working in law, health care and social services |

## Prepare: Assignment

Compose a one-page portrait of a person who is experiencing abuse as an older adult. Include the following:

* The type of abuse involved
* The relationship between the adult experiencing abuse and the person acting abusively
* Key people involved in the older person’s life who might be able to support him or her or respond
* The possible contributing factors to the abuse

You may find it useful to refer to the Statistics Canada report, Victimization of Older Canadians, 2009 (<http://www.statcan.gc.ca/pub/85-002-x/2012001/article/11627-eng.htm>) while composing your portrait, which may be used for further activities in Competency 2 (Recognize), Competency 3 (Prevent) and Competency 4 (Respond).

## Prepare: Questions

1.1 List three actions that could be defined as abuse in British Columbia.

Any three of intimidation, humiliation, physical assault, sexual assault, over-medication, withholding medication, censoring mail, invasion or denial of privacy, denial of access to visitors.

1.2 True or false? The definition of “neglect” includes onlyfailure to provide the necessities of life.

False. Neglect includes any failure to provide necessary care, assistance, guidance, or attention to an adult that causes, or is reasonably likely to cause, within a short period of time, the adult serious physical, mental, or emotional harm, or substantial financial damage or loss to the adult, and includes self-neglect.

1.3 Living in grossly unsanitary conditions is one possible example of self-neglect.

True.

1.4 What is the difference between cultural awareness, cultural sensitivity, cultural competence and cultural safety?

Cultural awareness acknowledges that there are differences between cultures; cultural sensitivity recognizes differences and inspires individuals to avoid practices that might be thought rude; cultural competence is based on respect for own and others’ cultures while recognizing individual differences; cultural safety focuses on the needs and experiences of the individual within their cultural context.

1.5 Who should primarily determine whether a practice confirms to the idea of cultural safety?

The individual receiving the service/treatment.

1.5 Imagine that in the course of your daily work you will be working with a Métis man aged approximately 72. You need to communicate something of significance to the individual in a way that respects both his privacy and safety. Given what you know about cultural competence and safety, and about Métis culture, how would you proceed?

Note to instructor: This evaluation activity might provide more meaningful responses if you identify a specific instance of communication. This could be a legal, financial, health or other concern, depending on the sector where the participants work. Encourage participants to think about their knowledge of Metis culture and how they might apply what they’ve been studying about cultural competence and safety.

*Responses will vary depending on the position, role, background and experience of participants.*

1.6: How can theory inform your practice in relationship to the abuse and neglect of older adults?

Responses will vary depending on the position, role, background and experience of participants

1.6 Match the theory to a simplified explanation for the abuse and neglect of older adults.

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| Transactional theory | Abusive behaviour is an irrational response to stress. |
| Feminist theory | Abuse of older adults occurs in relationships; the relationship continues when the perceived rewards outweigh perceived punishments. |
| Situational theory | Abuse occurs in response to power imbalances within a patriarchal family system. |
| Social exchange model | Abuse occurs within a complex framework made up of multiple factors |

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| *Transactional theory* | *Abuse occurs within a complex framework made up of multiple factors* |
| *Feminist theory* | *Abuse occurs in response to power imbalances within a patriarchal family system.* |
| *Situational theory* | *Abusive behaviour is an irrational response to stress.* |
| *Social exchange model* | *Abuse of older adults occurs in relationships; the relationship continues when the perceived rewards outweigh perceived punishments.* |

1.6 True or false?

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| Dehydration is always a sign that an older adult is experiencing neglect. | True or false? |
| Asking an older adult (for example, a grandparent) to babysit a child constitutes abuse. | True or false? |
| The cause of abuse of older adults is lack of knowledge. | True or false? |
| Abuse of older adults by family members may be an indication of ongoing abuse through the individual’s lifetime. | True or false? |

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| Dehydration is always a sign that an older adult is experiencing neglect. | **False.** Dehydration may be a result of neglect, and may be a result of abuse (denial of liquids), and also may have many other medical causes. |
| Asking an older adult (for example, a grandparent) to babysit a child constitutes abuse. | **False.** Asking and respecting the response is an indication of mutual respect. |
| The cause of abuse of older adults is lack of knowledge. | **False.** Lack of knowledge can be a cause of abuse or neglect, but it is not the only cause. |
| Abuse of older adults by family members may be an indication of ongoing abuse through the individual’s lifetime. | **True.** Domestic abuse may continue as individuals age. |

1.7 List at least five examples of ageism you have noted in society or in the media. Note to instructor: Examples may be drawn from observation in everyday life or from media.

Any five of following: condescending speech to older people, exclusion/lesser treatment of older adults in health care settings, jokes about sexual activity among older people, assumptions that all older people are heterosexual, assumptions that all older people love children, assumptions that all older people are slow to learn and dislike technology… essentially any statement that begins “all older people” likely represents an ageist assumption.

1.7 Ageism – short answer/paragraph: Why is it important to be aware of ageism in interaction with older adults?

# Competency 2: Recognize

## Description

Comprehend the various risk factors and indicators of abuse and neglect rather than evaluating the situation of a specific individual

## Learning Outcomes

2.1 Identify risk factors for all types of abuse, neglect and self-neglect

2.1.1 Analyze differences in the aging experiences of older adults across diverse backgrounds and the impact of socio-cultural forces such as class, ethnic origin, (dis)ability, sexual orientation, sex and gender on the functioning of older adults

2.2 List indicators of possible abuse, neglect and self- neglect

2.2.1 List possible indicators of emotional abuse

2.2.2 List possible indicators of financial abuse

2.2.3 List possible indicators of physical abuse

2.2.4 List possible indicators of sexual abuse

2.2.5 List possible indicators of neglect

2.2.6 List possible indicators of self-neglect

2.3 Demonstrate knowledge of prevalence and incidence of abuse, neglect and self-neglect

## Overview

Competency 2 is focused on developing participants’ understanding of abuse, neglect and self–neglect, and the various ways in which they can be apparent. The focus is on risk factors, indications and prevalence. Specifically, content includes:

* Identification of risk factors for experiencing abuse and behaving abusively
* Reflection on differences in aging among older adults
* Identification of possible indicators of all types of abuse, including emotional, financial, physical and sexual abuse, neglect, and self-neglect
* Discussion of prevalence of abuse, neglect and self-neglect, and identification of ways it might become obvious to course participants in their work roles

## Readings

No readings were developed specifically for this competency.

## Instructional Time

From 50-65 minutes are required if all core activities are included. Time estimates do not include optional additional activities.

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| Competency 2 Recognize | |
| Activity for Learning Outcome 2.1 | |
| Description | Identify risk factors for all types of abuse, neglect and self-neglect |
| Purpose | * Prepare participants to consider risk factors in their interactions with older adults |
| Resources | * Slides 46-49 |
| Time | * 5 minutes |
| The Activity | |
| Introduction | * Ask participants to identify factors that they think would put older adults at risk of abuse * Ask participants to consider factors that might lead individuals to act abusively towards older adults |
| Execution | * Show Slides 47-49 and discuss vulnerability |
| Debriefing | * Remind participants that individuals’ lives are not made up exclusively of risk factors; seeing older adults as primarily “victims of abuse” or “potentially victims of abuse” is a form of ageism |
| Evaluation | * See Recognize: Questions section |
| Optional additional activities and resources | * Provincial Domestic Violence Plan (<http://www.mcf.gov.bc.ca/podv/pdf/dv_pp_booklet.pdf>) * Vulnerable Adults and Capability Issues in BC: Provincial strategy document January 2009 (http://[www.bcli.org/sites/default/files/Vanguard\_(16May09).pdf](http://www.bcli.org/sites/default/files/Vanguard_(16May09).pdf)) |

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| Competency 2 Recognize | |
| Activity for Learning Outcome 2.1.1 | |
| Description | Analyze differences in the aging experiences of older adults |
| Purpose | * Raise participants’ awareness of the heterogeneous nature of the older adult population |
| Resources | * Slides 50-54 |
| Time | * 10 minutes |
| The Activity | |
| Introduction | * Show Slide 51 and remind participants that multiple factors have an impact on the aging experiences of adults * Show Slide 52 and ask participants to name other factors they think are important |
| Execution | * Show Slides 53-54 and review the instructions for the case studies * Ask participants to discuss the factors they think could have the most impact on the older adults’ lives in the near future |
| Debriefing | * Remind participants of the complexity of older adults’ lives and the impact this complexity has on their experience of aging |
| Evaluation | * None needed for this activity |
| Optional additional activities and resources | * None needed for this activity |

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| Competency 2 Recognize | |
| Activity for Learning Outcomes 2.2, 2.2.1, 2.2.2, 2.2.3, 2.2.4, 2.2.5, 2.2.6 | |
| Description | List indicators of possible abuse, neglect and self-neglect |
| Purpose | * Raise participants’ awareness of potential indications of abuse, particularly those relevant to their workplace * Ensure participants are aware that indications are not certainties |
| Resources | * Slides 55-72 * (Appendix 2): Under the Bed (Length: 30 seconds) (optional; can be difficult to watch) * Video (Appendix 2): The Professor (Length: 1:25) * Video (Appendix 2): Cane (Length: 30 seconds) (optional; can be difficult to watch) * Video (Appendix 2): The Babysitter (Length: 1:04) |
| Time | * 30-45 minutes, depending on discussion |
| The Activity | |
| Introduction | * Identify types of abuse: emotional, financial and physical * Ask participants to brainstorm possible indicators of abuse and neglect |
| Execution | * Show slides describing possible indicators: emotional abuse, financial abuse, physical abuse, neglect and self-neglect * As each “indicators” slide title appears, ask participants to state indicators of the named type of abuse/neglect they brainstormed earlier, then show slide * Alternatively, show each “indicators” slide and ask participants to make note of any they did not list * After discussing emotional, financial and physical abuse, you may wish to show a video specific to a type of abuse: * Emotional abuse: Show the video, Under the Bed, and then encourage participants note the intergenerational component to the situation (a child, hiding under the bed, initially appears to be the target of the harsh speech) * Financial abuse: Show the video, The Professor, and then ask participants to note potential indications of financial abuse (the man’s coat is stained, torn and ill-fitting; this does not match his possessions or speech; he is examining a bill when the woman enters and seems concerned; he indicates he has given control of his finances to his son) * Physical abuse: Show the video, Cane, and then encourage participants to note the intergenerational component to the situation * After showing all the slides about indicators, you may also wish to show an additional video, The Babysitter, which contains a scene involving a woman being pressured to provide more childcare for her grandchild and deals with the subtleties of what is and is not abusive |
| Debriefing | * Close the discussion in a way that is most appropriate to the participants’ workplace |
| Evaluation | * See Recognize: Questions section |
| Optional additional activities and resources | * This is a good time to introduce information related to specific sectors and workplaces (e.g. employees in the financial sector might review indications of abuse in bank records; nurses and care aids might review common patterns of bruising or other indicators of physical abuse) * ONPEA Core Curriculum and Resource Guide ([www.onpea.org/english/trainingtools/corecurriculum.html](http://www.onpea.org/english/trainingtools/corecurriculum.html)): Contains 25 case studies designed to promote dialogue about abuse and neglect experienced by older adults; for multi-profession teams in four areas (long-term care, living in the community, pharmacy, banking) * Ministry of Justice e-book *Understanding and Responding to Elder Abuse* (<http://www.pssg.gov.bc.ca/victimservices/shareddocs/ElderAbuse.pdf>): Includes additional indicators of many types of abuse (Section A4: Identifying elder abuse and neglect) |

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| Competency 2 Recognize | |
| Activity for Learning Outcome 2.3 | |
| Description | Demonstrate knowledge of prevalence and incidence of abuse, neglect and self-neglect |
| Purpose | * Ensure participants realize that abuse and neglect are not rare |
| Resources | * Slides 73-74 * Additional information provided by instructor |
| Time | * 5 minutes |
| The Activity | |
| Introduction | * Show Slide 74 |
| Execution | * Show Slide 74, which contains statistics related to the abuse of older adults in Canada * If possible, add information about the incidence and prevalence of abuse as it affects your participants (e.g. if participants will be working in a health authority, it might be valuable for them to know the approximate number of cases designated responders become involved with every year or how often in their work lives they may see cases of abuse or neglect of an older adult) |
| Debriefing | * Remind participants that abuse and neglect have an impact on a significant number of people. |
| Evaluation | * See Recognize: Questions section |
| Optional additional activities and resources | * Victimization of Older Canadians, 2009 (<http://www.statcan.gc.ca/pub/85-002-x/2012001/article/11627-eng.htm>): Covers many issues, including Internet fraud and violent crime |

## Recognize: Assignment

Return to the one-page portrait you developed in Competency 1. Add a section outlining any particular factors that are likely to increase the chance that the older adult will experience abuse.

## Recognize: Questions

2.1 List three factors that could increase an older adult’s likelihood of experiencing abuse.

Risk factors include social isolation, living with others, dementia, gender (female), race, physical health, personality characteristics, dependency/caregiver stress, and vulnerability.

2.1 List three factors that could increase individual’s likelihood of acting abusively towards an older adult

Risk factors include living with others, social isolation, mental illness, alcohol/drug misuse, hostility/anger problems, dependency on older adult, childhood experience of violence, being the spouse/child of person being abused.

2.2 Identify three possible indicators of a specific type of abuse. Choose a type of abuse your participants are likely to identify.

Possible indicators of emotional abuse include changes in behaviour (particularly appearing upset, agitated, withdrawn or non-responsive), changes in behaviour when a particular individual enters/leaves the room, verbal aggression from a particular individual.

Possible indicators of financial abuse include sudden changes of banking practices (for example, withdrawal of large amounts of money or changes in financial situation), failure to pay bills, cancellation of paid services, apparent confusion about finances, regular presence of a relative/stranger/caregiver for in-person banking, presence of a relative/stranger/caregiver who is encouraging changes in accounts or practices.

Possible indicators of physical abuse include untreated, frequent or unexplained injuries, vague or illogical explanations of injuries, fractures of limbs or skull, bruises, sores, abrasions or cuts, internal injuries or bleeding, black eyes, welts and marks from restraint, skin indications: lacerations, burns, dehydration or bites. Possible indicators of sexual abuse include unexplained venereal disease, genital infections, torn, stained or bloody underclothes, difficulty walking or sitting, bruising or swelling around anal or genital area, withdrawal, fear, depression, anger, insomnia, changed level of interest in sex, aggressive behaviour, strong reactions to discussion of sexual abuse.

2.3 True or false? Fewer than 1% of older adults will experience any form of abuse.

False. From 4% to 10% of older adults will experience some form of abuse.

# Competency 3: Prevent

## Description

Understand that prevention occurs at the societal level and individual level.

## Learning Outcomes

3.1 Be aware of the contexts in which abuse, neglect or self-neglect may occur, including the potential risks of social isolation

3.2 Be aware of the complexities and potential impact of disclosure of abuse and neglect

3.2.1 Explain barriers to disclosure for adult experiencing the situation and for others close to the situation

3.2.2 Identify cultural factors that affect disclosure

3.3 Appreciate the value of safe and caring communities in the prevention of elder abuse, neglect and self-neglect

3.4 Be aware of potential and existing prevention strategies and resources for responding to abuse, neglect and self-neglect

3.5 Be aware of opportunities for community engagement in prevention of abuse, neglect and self-neglect, including existing initiatives

3.5.1 Outline the roles of health care professionals, law enforcement, social workers and financial industry professionals in the recognition, prevention and response to abuse

3.5.2 Identify programs and resources to recognize, prevent and respond to elder abuse in the local community

3.6 Be aware of potential resources available for potential abusers, including mental health, gambling, addictions and other services

3.7 Be aware of relevant elder abuse legislation, including (but not limited to) – *Adult Guardianship Act, Public Guardian and Trustee Act, Representation Agreement Act, Power of Attorney Act, Health Care Consent and Care Facility Admission Act, Patient’s Property Act, Indian Act, Human Rights Act, Criminal Code, Mental Health Act,* relevant immigration law

3.7.1 Summarize guiding principles of British Columbia *Adult Guardianship Act* and other relevant legislation

3.7.2 Define (according to a provided list of definitions) relevant terms, including capability, reduced capability, mental capacity and consent

3.7.3 Explain implications of guiding principles of the *Adult Guardianship Act* and other relevant legislation for your profession/ role

3.7.4 Describe and compare the substitute decision-making options available in BC

## Overview

Competency 3 encourages participants to become familiar with resources that exist within their communities to prevent the abuse and neglect of elders. Participants will consider broad approaches to prevention, including the role of all citizens in building communities oriented towards wellness. Specifically, content includes:

* Recognition of the social context within which abuse and neglect occurs
* Identification of barriers that discourage some older adults from discussing abuse or neglect they experience
* Identification of the value of community in the prevention of abuse, neglect and self-neglect
* Identification of potential and existing resources for response, and opportunities for community engagement
* Recognition of specific professional roles in responding to abuse, neglect and self-neglect
* Identification of resources for those who are acting abusively or neglectfully, or who may be at risk of this
* Awareness of British Columbia legislation relevant to the abuse and neglect of older adults
* Discussion of substitute decision-making possibilities in British Columbia

## Readings

* Background to Prevention
* What Laws Apply to Elder Abuse and Neglect?
* The *Adult Guardianship Act* – Guiding Principles
* Mental Capacity and Consent
* Supportive and Substitute Decision-Making in BC

## Instructional Time

From 105-155 minutes are required if all core activities are included. Time estimates do not include optional additional activities.

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| Competency 3 Prevent | |
| Activity for Learning Outcome 3.1 | |
| Description | Be aware of the contexts in which abuse, neglect and self-neglect may occur, including the potential risks of social isolation |
| Purpose | * Ensure participants understand the social context of abuse, neglect and self-neglect |
| Resources | * Slides 76-81 * Video (Appendix 2): I Want To Go Home (Length: 2:02) |
| Time | * 15 minutes |
| The Activity | |
| Introduction | * Introduce the idea of prevention to participants as actions that can be taken at the societal and community level, as well as at the individual level * Explain that preventive activities can be valuable in addressing multiple risk factors * Remind participants that to understand abuse, neglect and self-neglect, it is important to consider the social context, not simply the individual situation |
| Execution | * Show Slides 77-81 to explore the social context of abuse and neglect * Show the video, I Want to Go Home, as an entry to discussing social isolation, barriers to disclosure and the specific circumstances of older adults who are immigrants, particularly those who are sponsored by family members * About the video: There is no abuse shown in this video. It features an older woman speaking on the phone to a friend, describing her life with her son and daughter-in-law. She says she does all the housework and child-raising while her son and daughter-in-law are at work; her son controls her money. She finds her life very different than she expected it to be and wants to go home. The video cuts between the woman and her son, a middle-aged businessman, who is explaining that he does everything for his mother and she does not appreciate all that he does. . . |
| Debriefing | * Discuss the complexities of the situation shown in the video |
| Evaluation | * None needed |
| Optional additional activities and resources | * Reading (Appendix 3), Background to Prevention: Provides an overview of the prevention of abuse, neglect and self-neglect within cultural contexts, focuses on the differences between primary, secondary and tertiary approaches to prevention, and includes additional activities * Any brief scenarios developed by the instructor and relevant to the participants’ work or potential work |

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| Competency 3 Prevent | |
| Activity for Learning Outcomes 3.2, 3.2.1, 3.2.2 | |
| Descriptions | Be aware of the complexities and potential impact of disclosure of abuse and neglect |
| Purpose | * Help participants realize that while many older adults do tell someone about abuse and neglect, there are many reasons why they might be reluctant to do so * Ability to recognize and be sensitive to these barriers is part of the practice of cultural competency and safety. |
| Resources | * Slides 82-88 * Video (Appendix 2): Mary’s Story (Length: 8:58) |
| Time | * 10-20 minutes |
| The Activity | |
| Introduction | * Discuss: Why do you think older adults might be reluctant to tell someone if someone is behaving abusively or neglectfully towards them? |
| Execution | * Show Slides 83-88 and discuss barriers to disclosure * Show the video, Mary’s Story, in sections * About the video: This video begins with an older Aboriginal woman, Mary, in a hospital, then fills in her back story (she has been assaulted by her daughter’s boyfriend; her daughter has swapped her prescription painkillers for over-the-counter painkillers). Subsequent scenes show Mary in conversation with the social worker, first in rehab, then in her new home. * After viewing the first section of the video, ask participants to explore reasons why Mary might be reluctant to disclose what happened * Ask participants what would make it more likely for Mary to disclose * Show the remaining sections of the video, which depict the challenges Mary faces with her daughter and daughter’s boyfriend, and the resolution of the situation |
| Debriefing | * Remind participants, or encourage them to remind themselves, that there are many reasons why individuals may be uncomfortable disclosing situations involving abuse or neglect |
| Evaluation | * None needed |
| Optional additional activities and resources | * Videos (Appendix 2): Under the Bed (Length: 30 seconds), Grocery Delivery (Length: 30 seconds), Cane (Length: 30 seconds), The Babysitter (Length: 1:04), Alone At Mom’s (Length: 2:01) or I Want To Go Home (Length: 2:02) * ONPEA Core Curriculum and Resource Guide ([www.onpea.org/english/trainingtools/corecurriculum.html](http://www.onpea.org/english/trainingtools/corecurriculum.html)): Contains 25 case studies designed to promote dialogue about abuse and neglect experienced by older adults; for multi-profession teams in four areas (long-term care, living in the community, pharmacy, banking) |

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| Competency 3 Prevent | |
| Activity for Learning Outcome 3.3 | |
| Description | Appreciate the value of safe and caring communities in the prevention of elder abuse and neglect |
| Purpose | * Encourage participants to reflect on the value of healthy communities and their own role in those communities |
| Resources | * Slides 89-91 * Videos (Appendix 2): The Babysitter (Length: 1:04) and The Babysitter Response (Length: 49 seconds) |
| Time | * 20 minutes |
| The Activity | |
| Introduction | * Show Slides 90-91 * Discuss: Given the social context of abuse and neglect, what do you see as the role of the community? |
| Execution | * Show the video, The Babysitter, which shows a grandmother being asked to take on additional babysitting duties for a grandchild at the expense of her own priorities/activities * Discuss reasons favouring a decision to spend more time babysitting, and reasons favouring a decision to say no and continue planned activities (this could be structured as a debate) * Role play a conversation with the grandmother (seek a volunteer for this role), asking her to explain her feelings * Ask participants to consider what resources in the community could help resolve this issue * Show the follow-up video, The Babysitter Response, and discuss |
| Debriefing | * Discuss: How does/how can your workplace/your role contribute to a healthy community? |
| Evaluation | * None needed |
| Optional additional activities and resources | * Video (Appendix 2), Dr. Calliou (Length: 7:38): Provides an analysis of abuse from a variety of institutional sources; makes an excellent discussion-starter in the conversation about the value of community, and would reinforce the importance of cultural safety * Video (Appendix 2), Where is my home? (Length: 13:23): Presents an extensive role play of a woman from Hong Kong emotionally and physically abused by her daughter-in-law in Canada. In Cantonese with English sub-titles. Demonstrates value of family physician, social service agency and friends in confronting and overcoming abuse. |

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| Competency 3 Prevent | |
| Activity for Learning Outcomes 3.4, 3.5, 3.5.2, 3.6 | |
| Description | Be aware of the potential and existing prevention strategies and resources for responding to abuse, neglect and self-neglect, and opportunities for community engagement |
| Purpose | * Help participants be aware of resources in the community for both those experiencing abuse and those acting abusively |
| Resources | * Slides 92-97, 101-102 * Reading (Appendix 3): Response Resources for Professional Practice * Internet access for identifying local resources |
| Time | * 30-45 minutes |
| The Activity | |
| Introduction | * Discuss: What is the value of being aware of community resources and programs? * Encourage participants to recognize that being aware of resources and programs means they are able to: * Suggest them to those who might benefit * Participate as part of own active role in a healthy community |
| Execution | * Show Slides 94-97 and identify prevention strategies * Ask participants to work together, first brainstorming categories of community resources that might be particularly valuable for older adults, then identifying existing resources in their community * Remind participants to include potential resources available for potential abusers. * Begin by sharing personal knowledge (some participants may already be engaged in existing initiatives and be glad to share information) * Remind participants that Internet searches can provide more information about resources within your community intended to reduce abuse and neglect of older adults, as well as services that could help reduce risk factors |
| Debriefing | * Create a list of resources discovered – ideally word processed on the spot, and printed for all participants |
| Evaluation | * None needed |
| Optional additional activities and resources | * BC Elders’ Handbook (<http://www.fnha.ca/wellnessContent/Wellness/BC_EldersGuide.pdf>): Created by the First Nations Health Authority and Seniors BC and specifically designed to be of value of Aboriginal older adults * BC Seniors Guide (<http://www2.gov.bc.ca/gov/topic.page?id=442A501304294470A793668B377B32C3> ): Written for a general audience and available in English, French and Punjabi * Video (Appendix 2) With Love and Respect (Length: 5:57): Describes the Community Response Network and provides a good basic introduction to the informal and formal intervention processes * About this video: The team speaking is from a First Nation so some roles (for example, community health worker) may not exist in every community. The general summary identifies the connections between informal intervention, Designated Agencies and the police for criminal code offences, and is useful for anyone. * BC Association of Community Response Networks website (<http://www.bccrns.ca/generated/homepage.php>) The * Making Connections: Building Networks to Prevent Abuse of Older Adults (<http://seniors.lamp.yk.com/wp-content/uploads/2013/11/Making-Connections-Building-Networks-to-Prevent-Abuse-of-Older-Adults-Symposium-Report.pdf>): Provides background on Aboriginal ways to prevent abuse through community networking and capacity building * Ministry of Justice e-book *Understanding and Responding to Elder Abuse* (<http://www.pssg.gov.bc.ca/victimservices/shareddocs/ElderAbuse.pdf>): Outlines provincial programs designed to respond to abuse and neglect (Section B: BC Government Programs and Community Services Available for Older Adults who Have Been Abused or Neglected) |

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| Competency 3 Prevent | |
| Activity for Learning Outcome 3.5.1 | |
| Description | Outline the roles of health care professionals, law enforcement, social workers and financial industry professionals in the recognition, prevention and response to abuse |
| Purpose | * Ensure participants are aware of varying roles of professions involved in identifying, preventing and responding to elder abuse |
| Resources | * Slide 98-100 * Reading (Appendix 3): Response Resources for Professional Practice * Additional information provided by instructor |
| Time | * 5 minutes |
| The Activity | |
| Introduction | * Ask participants to list professionals who may be involved in identifying, preventing and/or responding to situations where the abuse or neglect of an older person is suspected |
| Execution | * Show Slides 99-100 (customized for the needs of your group) and discuss how multiple professions play multiple roles (note that if you intend to present the Decision Tree in the activity for Learning Outcome 4.6, this discussion may be unnecessary) * Distribute the reading, Response Resources for Professional Practice, or a portion of the reading that isappropriate for your participants |
| Debriefing | * Remind participants that all members of a community have a personal obligation to actively encourage development of a community based on wellness and interpersonal connection |
| Evaluation | * None needed |
| Optional additional activities and resources | * None needed |

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| Competency 3 Prevent | |
| Activity for Learning Outcomes 3.7, 3.7.1, 3.7.3 | |
| Description | Be aware of relevant elder abuse legislation |
| Purpose | * Ensure participants are aware of legislation that is relevant to their profession/role |
| Resources | * Slides 103-111, 115-116 * Reading (Appendix 3): What Laws Apply to Elder Abuse and Neglect? |
| Time | * 10-30 minutes (time needed depends on profession/role of participants and whether reading is read in advance or during class) |
| The Activity | |
| Introduction | * Distribute the reading, What Laws Apply to Elder Abuse and Neglect? * If the legislation is particularly relevant to the profession/role of participants, distribute the reading in advance |
| Execution | * For participants not in the legal sector, walk through the reading, highlighting laws that are of particular relevance to their work (note that links to additional readings are provided in the reading, and many of these are relevant only to specific sectors) * Show Slides 109-110 and stress the significance of the presumption of capacity * Discuss: What impact does the prevalence of ageism have on our assumption of capacity on the part of older adults? How does our level of cultural competence and safety affect our view of capacity on the part of older adults? |
| Debriefing | * Provide sources for more information if requested |
| Evaluation | * See Prevent: Questions section |
| Optional additional activities and resources | * Reading (Appendix 3), The *Adult Guardianship Act –* Guiding Principles: Provides additional background on the act and other relevant legislation * Discuss implications of the guiding principles for your area of practice. |

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| Competency 3 Prevent | |
| Activity for Learning Outcome 3.7.2 | |
| Description | Define relevant terms, including capability, reduced capability, mental capacity (and consent where relevant) |
| Purpose | * Ensure adequate understanding of the term “mental capacity” |
| Resources | * Slides 112-114 * Reading (Appendix 3): Mental Capacity and Consent (optional, depending on needs of group) |
| Time | * 10 minutes |
| The Activity | |
| Introduction | * Inform participants that “mental capacity” is a critically important term in prevention of abuse and neglect of older adults (if you are not familiar with the concept yourself, complete the optional reading) |
| Execution | * Show Slides 113-114 |
| Debriefing | * Discuss: Under what circumstances in your work might you need to seek informed consent from an older adult? How does the idea of mental capacity impact your work? |
| Evaluation | * See Prevent: Questions section |
| Optional additional activities and resources | * Reading (Appendix 3), Mental Capacity and Consent: Discusses differing standards of capacity that must be met for appointment of substitute decision-makers, reviews the concept of consent, particularly as it applies to health care, and explains provisions for temporary decision-makers |

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| Competency 3 Prevent | |
| Activity for Learning Outcome 3.7.4 | |
| Description | Describe and compare the substitute decision-making options available in BC |
| Purpose | * To ensure that participants are familiar with the three types of substitute and supportive decision-making in British Columbia |
| Resources | * Slide 117-118 * Reading (Appendix 3): Supportive and Substitute Decision-Making in BC (optional, depending on needs of group) * Additional information provided by instructor |
| Time | * 5-10 minutes for basic content (more time may be needed to discuss specific policies/procedures) |
| The Activity | |
| Introduction | * Explain why it is important for participants to understand mechanisms for supportive and substitute decision-making |
| Execution | * Show Slide 118 (customized for needs of your group by including information on specific policies) and discuss how substitute or supportive decision-making affects participants’ work |
| Debriefing | * Discuss: Will this information have an impact on your work role day-to-day? How? |
| Evaluation | * None needed |
| Optional additional activities and resources | * None needed |

## Prevent: Assignment

Return to the portrait you developed in Competency 1 and 2. Add a section outlining barriers to disclosure the older adult in your portrait may experience. Identify the community resources you feel would be most helpful for all those involved in the situation.

## Prevent: Questions

3.7 What is the intention of the *Adult Guardianship Act*?

The act creates a framework for responding to the abuse of adults who are unable to protect themselves.

3.7 Under what circumstances can the Public Guardian and Trustee intervene to respond to concerns about abuse or neglect?

The *Public Guardian and Trustee Act* gives the PGT authority to investigate the activities of a committee, attorney or representative if the PGT has reason to believe the adult’s assets are at risk or that the committee, attorney or representative has failed to comply with his or her duties.

Where there is no committee, attorney or representative, the PGT may also investigate the situation of any adult who is apparently abused or neglected as defined in the *Adult Guardianship Act.*

3.7.2 Define mental capacity.

Ability to make decisions; ability to understand the nature and effect of actions or events.

3.7.2 Identify factors that might negatively impact mental capacity only temporarily.

Illness, injury, use of alcohol/other recreational substances, impact of prescribed medications, temporary medical conditions.

# Competency 4: Respond

## Description

Take appropriate action within scope of practice.

## Learning Outcomes

4.1 Communicate concerns to the older adult

4.2 Document concerns

4.2.1 Identify types of information needed during identification of abuse/mistreatment according to the standards of your profession/role

4.2.2 Document neglectful or abusive behaviour according to the standards of your profession/role

4.3 Describe the process for assessment of individuals and situations

4.4 Maintain safety for everyone involved: adult, self and colleagues

4.4.1 Predict potentially unsafe situations

4.5 Maintain privacy and confidentiality

4.5.1 Be aware of the impact of professional confidentiality obligations and privacy law on the ability of professionals to disclose an older adult’s confidential information in order to follow up on concerns regarding abuse and neglect

4.6 Follow identified procedures/processes to report concerns about potential abuse, neglect or self-neglect (referring to the Decision Tree)

4.6.1 Explain professional/legal requirements for reporting if abuse/neglect is suspected

## Overview

Competency 4 is intended to help participants plan appropriate action to take within their scope of practice when they observe or suspect that an older adult is experiencing abuse, neglect or self-neglect.

It is especially important to remember the intended level of these materials in the context of this competency. These materials are not intended to provide adequate preparation for individuals who will be identified as responders within Designated Agencies. These materials are intended to provide sufficient preparation for individuals who work in financial, legal, health and social services sectors in general, but they are not expected to be sufficient for those who have specific responsibility for response to the abuse of older adults. Those who do have this specific responsibility require further preparation for their role. Specifically, content includes:

* Approaches for having conversations with older adults about neglect and abuse
* Maintenance of safety for the older adult, for self and for colleagues
* Increase awareness of potentially unsafe situations
* Maintenance of privacy and confidentiality
* Follow identified procedures/processes to report concerns about potential abuse, self-abuse or neglect
* Identification of legal requirements for reporting abuse, neglect and self-neglect
* Documentation of observations supporting concerns
* Awareness of assessment approaches for individuals and situations

## Readings

* How to Assist an Adult Who Is Abused, Neglected or Self-Neglecting: A Decision Tree for Effective Referrals for Adults in BC Who May Be Vulnerable and/or Incapable
* Privacy Laws
* Obligations to Respond

## Instructional Time

From 100-130 minutes are required if all core activities are included. Time estimates do not include optional additional activities.

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| Competency 4 Respond | |
| Activity for Learning Outcome 4.1 | |
| Description | Communicate concerns to the older adult |
| Purpose | * Be aware of possible approaches to take when interacting with older adults |
| Resources | * One or more of: * ONPEA Core Curriculum and Resource Guide ([www.onpea.org/english/trainingtools/corecurriculum.htm](http://www.onpea.org/english/trainingtools/corecurriculum.htm)): Template to Guide Thinking Through Complex Issues, page 7 (optional, depending on needs of group) * What You Can Do When Abuse or Neglect Is Happening to an Older Adult in Your Life (It’s Not Right/Neighbours, Friends and Family brochure) (<http://itsnotright.ca/sites/learningtoendabuse.ca.itsnotright/files/nff%20inr%20when%20abuse%20is%20happening%20eng.pdf>) * Video (Appendix 2): The Professor (Length: 1:25), Mary’s Story (Length: 8:58) or Grocery Delivery (Length: 30 seconds) |
| Time | * 30-45 minutes |
| The Activity | |
| Introduction | * Remind participants that as people in society, we have a responsibility not to turn a blind eye to others in distress, whatever our professional obligations may or may not be |
| Execution | * If your participants have responsibilities to respond, distribute the Template to Guide Thinking Through Complex Issues and discuss. * Distribute the reading, What You Can Do When Abuse or Neglect Is Happening to an Older Adult in Your Life, which is relevant for everyone, whether they have professional responsibilities in this area or not. * Review the main points in What You Can Do and refer participants to the “See it, Name it, Check it” strategy * Play one of the suggested videos * About the videos: The Professor is a good, relatively brief choice that may suggest financial abuse. Mary’s Story is longer and is a good choice for teams involving health care providers, since it opens in a hospital and does involve clear evidence of abuse. Grocery Delivery is very brief; it could be used in a variety of settings if viewers imagine that the older woman has spoken to someone in the group about the situation, or the middle-aged woman has, or somehow the scene has been witnessed. * As a group, consider the situation shown in the video and work through the questions on the Template to Guide Thinking Through Complex Issues (if questions are raised that will be answered later in your session, bracket them for discussion there) * Role play a conversation raising the issue observed with the older adult in the scene |
| Debriefing | * As a group, discuss what may make it difficult to speak up when abuse or neglect are suspected * Note that importance of safety for everyone involved |
| Evaluation | * None needed |
| Optional additional activities and resources | * Ministry of Justice e-book *Understanding and Responding to Elder Abuse* (<http://www.pssg.gov.bc.ca/victimservices/shareddocs/ElderAbuse.pdf>): Includes additional resources for those working with older adults, including several videos outlining communication techniques (Section C: Working with older adults who have been abused and/or neglected) |

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| Competency 4 Respond | |
| Activity for Learning Outcomes 4.2, 4.2.1, 4.2.2, 4.3 | |
| Description | Document concerns and describe the process for assessment of individual situations |
| Purpose | * Ensure participants are aware of procedures they should follow for documenting and sharing concerns, and/or aware of what to do if there is no formal procedure in place |
| Resources | * Slides 121-129 * ONPEA Core Curriculum and Resource Guide ([www.onpea.org/english/trainingtools/corecurriculum.html](http://www.onpea.org/english/trainingtools/corecurriculum.html)): Case studies, starting on page 133 of (optional, depending on needs of group) * Additional information added by instructor about specific procedures/documents relevant to participants' workplace |
| Time | * 20 minutes (more time will be needed if case studies are used) |
| The Activity | |
| Introduction | * Explain to participants that there is (or is not, depending on the work circumstance of participants) a specific procedure for documenting concerns * For entry-to-practice participants, explain how they will find out about specific procedures in the field they are entering |
| Execution | * Show Slide 123, 126-127 * Discuss steps for documentation using Slide 126 - 127 * Remind participants that much of the documentation process is straightforward and as it would be for documenting any other workplace concern: * Objective descriptions of observations are required * Judgment is not helpful * Practice is highly recommended, particularly if a specific documentation procedure is required * To provide documentation practice: * Ask participants to role play one of the situations described in the case studies in the ONPEA Core Curriculum and Resource Guide * Ask other participants to document what they see, then discuss * View one of the case study videos in the ONPEA Core Curriculum and Resource Guide * Use specific documentation procedures or general procedures to document concerns * Show Slides128-129 for a general overview of the assessment process |
| Debriefing | * Ask participants who practised documenting what they saw in a role play or video to share their documentation, either in pairs or large groups * Discuss the documentation process: What was difficult? |
| Evaluation | * Ask participants to hand in their observations and provide feedback (optional) * See Respond: Questions section |
| Optional additional activities and resources | * Video (Appendix 3), With Love and Respect: (Length: 5:57) Describes the Community Response Network and provides a good basic introduction to the informal and formal assessment processes. * About the video: The team speaking is from a First Nation community so some roles (for example, community health worker) may not exist in every community. The general summary identifies the connections between informal intervention, Designated Agencies and the police for criminal code offenses, and is useful for anyone. |

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| Competency 4 Respond | |
| Activity for Learning Outcomes 4.4, 4.4.1 | |
| Description | Maintain safety for everyone involved and predict potentially unsafe situations |
| Purpose | * Raise participants’ awareness of potential risk to selves, colleagues and older adults at risk of or experiencing abuse and/or neglect |
| Resources | * Slides 130-137 * Video (Appendix 2): Mary’s Story (Length: 8:58) * Additional information provided by instructor about specific policies and practices designed to ensure safety in participants' workplace |
| Time | * 20 minutes |
| The Activity | |
| Introduction | * Discuss: Whose safety should you be concerned with in a situation of potential abuse or neglect? |
| Execution | * Show Slides 131-134 and discuss good safety practices * Discuss information specifically related to safety in the participants' workplace * Show a section of the video, Mary’s Story (either the opening section about Mary in the hospital or the section including her daughter) * Discuss: Imagine that you want to have a conversation with Mary concerning her situation: * What safety concerns would you want to keep in mind? * What could you do to increase safety for everyone in the situation? * Show Slides 136-137 and discuss unsafe situations and ways to create more safety |
| Debriefing | * Ensure participants understand policies and practices in their workplace designed to ensure safety |
| Evaluation | * None needed |
| Optional additional activities and resources | * Individuals who will be visiting clients in their homes will require a deeper understanding of safety concerns than is provided in these materials. Refer to the National First Nations ReAct Manual, available online: <http://www.vchreact.ca/media/BCFN_REACT-En.pdf> Chapter 5 contains a more detailed discussion of physical safety and is based on WorkSafe BC guidelines. |
| Competency 4 Respond | |
| Activity for Learning Outcomes 4.5, 4.5.1 | |
| Description | Maintain privacy and be aware of the impact of professional confidentiality obligations and privacy law on the ability of professionals to follow up on concerns regarding abuse and neglect |
| Purpose | * Ensure participants are aware of privacy legislation and professional standards governing their practice |
| Resources | * Slides 138-145 * Additional information provided by instructor about policies/procedures specific to participants’ workplace |
| Time | * 10-15 minutes, depending on complexity of policies/procedures |
| The Activity | |
| Introduction | * Remind participants that privacy legislation governs the sharing of client or patient personal information without the client or patient consent (in situations where the client or patient has not consented to the sharing of information). |
| Execution | * Show Slides 139 -140 and discuss privacy law relevant to British Columbia (including federal legislation where applicable) * Identify which legislation applies to the participants’ workplace * Show Slide 141 (customized for the needs of your group) and discuss policies, procedures, regulations and guidelines specific to participants’ workplace * Show Slides 143-145 and discuss the impact of professional confidentiality and disclosure without consent |
| Debriefing | * Ask for questions and refer participants to optional reading if desired |
| Evaluation | * Show Slide 144 and ask participants to respond to the questions: * Does your organization/agency have a policy or protocol that applies? * Do professional regulations or other legislation add additional privacy obligations? * Does a professional Code of Ethics apply? * Respond Questions |
| Optional additional activities and resources | * Reading (Appendix 3), Privacy Laws: Introduces the basic concepts of privacy legislation and explores key exceptions allowing disclosure of private information without consent |

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| Competency 4 Respond | |
| Activity for Learning Outcome 4.6 | |
| Description | Apply the document: How to Assist an Adult Who is Abused, Neglected or Self Neglecting – A Decision Tree for Effective Referrals for Adults in BC Who May be Vulnerable and /or Incapable (The Decision Tree) |
| Purpose | * Introduce the Decision Tree and practice applying it |
| Resources | * Slides 146-149 * Videos (Appendix 2): Responding to Abuse, Neglect and Self Neglect in BC - 5 Videos (Length: 20-25 minutes) * Case Study: Mrs. L (included in these materials immediately following the lesson plan). * Reading (Appendix 3): How to Assist an Adult Who is Abused, Neglected and Self Neglecting: A Decision Tree for Effective Referrals for Adults in BC Who May be Vulnerable and/or Incapable (Decision Tree) |
| Time | * 30-60 minutes |
| The Activity | |
| Introduction | * Briefly explain the background to the Decision Tree: It was developed in a collaborative effort by the RCMP BC “E” Division, Public Guardian and Trustee and Fraser Health Authority and is intended to provide guidance to front line workers who are concerned about a situation in their community. It is recommended to include and discuss both pages of the document and view all the videos as they provide important context. |
| Execution | * View the video series, pausing after each video for discussion. They were designed to be shown in the following order:   1. An Overview of the Legislative Context  2. How to Use the Decision Tree to Assist an Adult Who is Abused, Neglected or Self-Neglecting  3. The Role of Designated Agencies  4. The Role of the Public Guardian and Trustee  5. The Role of the Police   * With course participants, apply the Decision Tree to the Mrs. L. case study. Walk through the Decision Tree, collectively asking and answering the questions and discussing what action would be best to take, if any. |
| Debriefing | * Help participants to recognize that there is no single right answer in this activity. The decision tree was developed to help guide people in thinking about complex situations; it is designed as a tool to encourage reflection. * Key messages - remind about the importance of watching for safety, respecting the adult by talking to them first whenever possible. * Encourage students to refer to the second page of the document, but also to review the websites and become more familiar with the details of all the services listed |
| Evaluation | * None required |
| Optional additional activities and resources | * Additional case studies drawn from the instructor’s experience, learners’ experience or the media may be used as further examples. * Videos provided as part of this resource (for example, Mary’s Story) may be used as further examples. * If course participants have completed the assignments connected to the competencies and have developed profiles of situations where abuse or neglect is suspected or occurring, these profiles can be used as a basis for application of the Decision Tree. |

## Case Study: Mrs. L

For learning outcome 4.6

### Part 1

Mrs. L was living independently in the community. Her husband died 2 years ago. For the last year, Mrs. L has been receiving some private home support for personal care. She also receives Meals on Wheels three times per week.

Six months ago, Mrs. L’s estranged nephew Neil whom she hasn’t seen for 10 years appeared on her doorstep. Neil is 57 years old and works occasionally as a handyman

Neil moves in and shortly thereafter cancels the Meals on Wheels.

A neighbour notices that Neil has moved in and asks Mrs. L who he is and how it is going with him living there. Mrs. L seems unsettled and states that Neil wants her to name him as her attorney in her Enduring Power of Attorney. The neighbour tells Mrs. L about some local support services that she could call for information and assistance.

### Discussion

* Is Mrs. L in immediate danger of physical harm?
* Is she able to seek assistance?
* What supports are available in your community for adults who are vulnerable to abuse but mentally capable?

### Part 2

Heath authority Home care staff makes a visit to Mrs. L. because they learn that the meal service has been cancelled. Neil manages to remain present and staff are unable to speak privately with his aunt. He advises the staff person that he will provide her with the personal support she needs. He also advises that Mrs. L has named him as her attorney in her Enduring Power of Attorney and wants him to take care of her finances as her husband used to.

Unfortunately in this situation, Mrs. L doesn’t pursue the less formal community supports described by her neighbour. Neil does not seem to appreciate the fragility of Mrs. L’s health. Mrs. L says that she wants Neil to stay and that she relies on him.

Shortly after the visit by Health authority home care staff, all home support services are cancelled by Neil.

Two months later home care staff were advised that Mrs. L was seen in emergency last night due to a fall at home. Mrs. L was found to be undernourished and disoriented.

Neil attended the hospital and said that he can manage Mrs. L’s needs at home and discharged her against medical advice. Neil did tell the hospital staff that he agreed to some follow-up care in the home from home care.

When home care goes to Mrs. L’s home post-discharge, they find Mrs. L is still disoriented and is referring to Neil as her deceased husband, “Roger”. She tells staff that “Roger” has sold their car and they are going on an Alaskan cruise as soon as she helps “Roger” pay off some of his credit card bills.

Home care staff are concerned about Mrs. L’s well-being and safety. They aren’t sure the fall was really a fall and remain concerned about her malnourishment and disoriented affect. They also now have reason to believe that Mrs. L is not mentally capable and that Neil is not performing his duties appropriately under his aunt’s Enduring Power of Attorney.

### Discussion

* Is Mrs. L in immediate danger of physical harm?
* Is she able to seek assistance? Are informal supports enough?
* Is the abuse, neglect or self neglect primarily related to financial matters or non-financial matters?

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| Competency 4 Respond | |
| Activity for Learning Outcome 4.6.1 | |
| Description | Explain professional/legal requirements for responding if abuse or neglect is suspected |
| Purpose | * Ensure participants are aware of professional/legal requirements * Note that this core material is intended to raise awareness only, and that health authorities provide specific and advanced training for those more directly involved in reporting and responding via the ReAct Adult Protection Program |
| Resources | * Slides 150-154 * Additional information provided by instructor |
| Time | * 5-10 minutes |
| The Activity | |
| Introduction | * Show Slides 151-152 to introduce the idea of the legal requirement for Designated Agencies to respond to reports of abuse and neglect in BC * Introduce students to the mandatory reporting requirements under the *Community Care and Assisted Living Act* and Residential Care Regulation to the obligations of a licensee under the *Act* to report alleged or suspected reportable incidents of emotional, physical, financial or sexual abuse or neglect |
| Execution | * Show Slide 153 (customized for the needs of your group) and discuss specific requirements of participants’ workplace |
| Debriefing | * Show Slide 154 and discuss when reporting may not be possible or appropriate * Encourage participants to remember the complexity of many situations of abuse and neglect * Respond to questions |
| Evaluation | * None needed |
| Optional additional activities and resources | * Reading (Appendix 3), Obligations to Respond: Outlines legal obligations to respond to abuse, identifies options for response and discusses key considerations |

## Respond: Assignment

Return to the portrait you developed in Competency 1, 2 and 3. Add a brief description of the process you would recommend for yourself or others to respond to the individual’s situation.

Your portrait may also be used as the basis for other applied activities:

* A role play in which you use the document “How to Assist an Adult Who is Abused, Neglected or Self Neglecting – A Decision Tree for Effective Referrals for Adults in BC Who May be Vulnerable and /or Incapable” (the Decisions Tree) to assist the individual described in your portrait
* A role play in which you have a conversation with someone about the individual’s situation

## Respond: Questions

4.3 Whose safety should you consider in cases of abuse or neglect?

Everyone’s. Yours, the potentially abused older adult, colleagues/staff of other agencies and the alleged abuser.

4.5.1 In British Columbia, what agencies/individuals are legally required to *report* abuse or neglect of older adults?

Operators of community care facilities.

4.5.1 In British Columbia what agencies/individuals are legally required to respond to reports of abuse or neglect?

Designated Agencies under the *Adult Guardianship Act*.

# Appendix 1: Core Competency Framework

| **Demonstrate cultural competence and cultural safety** | 1. **PREPARE Understand that elder abuse and neglect, and self-neglect, exist in cultural contexts; appreciate one’s own and others’ perspectives** |
| --- | --- |
| * 1. Define abuse |
| * 1. Define neglect |
| * 1. Define self-neglect |
| * 1. Explain the significance of cultural competence in responding to elder abuse, neglect and self-neglect |
| 1.4.1 Recognize the role of culture in the aging process |
| 1.4.2 Recognize diversity in the experience of aging as a function of cultural, social, racial/ethnic and other identities, and individual variability |
| * 1. Explain the significance of cultural safety in responding to elder abuse, neglect and self-neglect |
| * 1. Demonstrate awareness of different theories used to understand abuse, neglect or self-neglect |
| 1.6.1 Describe the causes, indicators and consequences of abuse and neglect of older adults |
| * 1. Analyze the role of ageism in societal and personal views of elder abuse, neglect and self-neglect |
| 1. **RECOGNIZE Comprehend the various risk factors and indicators of abuse and neglect rather than evaluating the situation of a specific individual** |
| * 1. Identify risk factors for all types of abuse, neglect and self-neglect |
| 2.1.1 Analyze differences in the aging experiences of older adults across diverse backgrounds and the impact of socio-cultural forces such as class, ethnic origin, (dis)ability, sexual orientation, sex and gender on the functioning of older adults |
| * 1. List indicators of possible abuse, neglect and self-neglect |
| * + 1. List possible indicators of emotional abuse |
| * + 1. List possible indicators of financial abuse |
| * + 1. List possible indicators of physical abuse |
| * + 1. List possible indicators of sexual abuse |
| * + 1. List possible indicators of neglect |
| * + 1. List possible indicators of self-neglect |
| * 1. Demonstrate knowledge of prevalence and incidence of abuse, neglect and self-neglect |
| 1. **PREVENT Understand that prevention occurs at the societal level and individual level** |
| * 1. Be aware of the contexts in which abuse, neglect or self-neglect may occur, including the potential risks of social isolation |
| * 1. Be aware of the complexities and potential impact of disclosure of abuse and neglect |
| 3.2.1 Explain barriers to disclosure for adult experiencing the situation and for others close to the situation |
| **Demonstrate cultural competence and cultural safety** | 3.2.2 Identify cultural factors that affect disclosure |
| * 1. Appreciate the value of safe and caring communities in the prevention of elder abuse and neglect |
| * 1. Be aware of potential and existing prevention strategies and resources for responding to abuse, neglect and self-neglect |
| * 1. Be aware of opportunities for community engagement in prevention of abuse, neglect and self-neglect, including existing initiatives |
| 3.5.1 Outline the roles of health care professionals, law enforcement, social workers and financial industry professionals in the recognition, prevention and response to abuse |
| 3.5.2 Identify programs and resources to recognize, prevent and respond to elder abuse in the local community |
| * 1. Be aware of potential resources available for potential abusers, including mental health, gambling, addictions and other services |
| * 1. Be aware of relevant elder abuse legislation, including (but not limited to) – *Adult Guardianship Act, Public Guardian and Trustee Act, Representation Agreement Act, Power of Attorney Act, Health Care Consent and Care Facility Admission Act, Patient’s Property Act, Indian Act, Human Rights Act, Criminal Code, Mental Health Act,* relevant immigration law |
| 3.7.1 Summarize guiding principles of British Columbia *Adult Guardianship Act* and other relevant legislation |
| 3.7.2 Define (according to a provided list of definitions) relevant terms, including capability, reduced capability, mental capacity and consent |
| 3.7.3 Explain implications of guiding principles of the *Adult Guardianship Act* and other relevant legislation for your profession/role |
| 3.7.4 Describe and compare the substitute decision-making options available in BC |
| 1. **RESPOND Take appropriate action within scope of practice** |
| * 1. Communicate concerns to the older adult |
| * 1. Document concerns |
| 4.2.1 Identify types of information needed during identification of abuse/mistreatment according to the standards of your profession/role |
| 4.2.2 Document neglectful or abusive behaviour according to the standards of your profession/role |
| * 1. Describe the process for assessment of individual situations |
| * 1. Maintain safety for everyone involved: adult, self and colleagues |
| 4.4.1 Predict potentially unsafe situations |
| * 1. Maintain privacy and confidentiality |
| 4.5.1 Be aware of the impact of professional confidentiality obligations and privacy law on the ability of professionals to disclose an older adult’s confidential information in order to follow up on concerns regarding abuse and neglect |
| * 1. Follow identified procedures/processes to report concerns about potential abuse, neglect or self-neglect (referring to the Decision Tree) |
| 4.6.1 Explain professional/legal requirements for reporting if abuse/neglect is suspected |

# Appendix 2: Open Videos and Content

If instructors choose to reuse the open video or content listed below in their own curricular resource or learning platform, this material must either retain or include the appropriate Creative Commons license and provide attribution to the organization holding the copyright. Organizations are listed below in the heading of each table. Please refer to the CC License column for more detail.

Videos can be found online in a YouTube channel:

<https://www.youtube.com/playlist?list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF>

Links to individual videos are provided in the table below.

## Open Videos

The lesson plans indicate where these videos can or should (in the case of the Decision Tree) be included to promote competency proficiency in the learning activities for specific learning outcomes.

|  |  |  |  |
| --- | --- | --- | --- |
| Elder Abuse Ontario (Ontario Network for the Prevention of Elder Abuse) http://www.onpea.org | | | |
| Title | Description | Link | CC License |
| **Under the Bed** (Length: 30 seconds) | A child hides under the bed while an angry voice berates someone. | <https://www.youtube.com/watch?v=xQd4nU0yzvA&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF&index=10> | CC BY-NC-SA (<https://creativecommons.org/licenses/by-nc-sa/3.0>) |
| **Grocery Delivery** (Length: 31 seconds) | A man and woman deliver groceries to the home of his mother; the man keeps his mother’s money. | <https://www.youtube.com/watch?v=Yg2J0vN1Jrg&index=8&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF> | CC BY-NC-SA (<https://creativecommons.org/licenses/by-nc-sa/3.0>) |
| **Cane**  (Length: 31 seconds) | A woman and child return home at the end of the day; the woman trips over a cane and shouts at an older adult. | <https://www.youtube.com/watch?v=hDZGhdKBeVk&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF&index=3> | CC BY-NC-SA (<https://creativecommons.org/licenses/by-nc-sa/3.0>) |

| Public Guardian and Trustee of BC (PGT)  http://www.trustee.bc.ca | | | |
| --- | --- | --- | --- |
| Title | Description | Link | CC License |
| Long title includes: Responding to Adult Abuse, Neglect and Self-Neglect in BC | | | |
| **An Overview of the Legislative Context**  (Length: 8:23) | This video (1 of 5) focuses on the legislative context of responding to vulnerable and or incapable adults in BC when more informal options are not enough. | <https://www.youtube.com/watch?v=lI0eb1O0DzY&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF&index=24> | CC BY-NC-ND (<https://creativecommons.org/licenses/by-nc-nd/3.0/>) |
| **How to Use the Decision Tree to Assist an Adult Who Is Abused, Neglected or Self-Neglected**  (Length: 6:04) | This video (2 of 5) explains how to use the Decision Tree to determine where the adult is at in order to identify the appropriate assistance. | <https://www.youtube.com/watch?v=cwm0-HmM16Y&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF&index=19> | CC BY-NC-ND (<https://creativecommons.org/licenses/by-nc-nd/3.0/>) |
| **The Role of Designated Agencies**  (Length: 5:33) | This video (3 of 5) explains the role of the designated agencies and provides an example of how a designated agency can assist. | <https://www.youtube.com/watch?v=Ut5_MGwHLhY&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF&index=20> | CC BY-NC-ND (<https://creativecommons.org/licenses/by-nc-nd/3.0/>) |
| **The Role of the Public Guardian and** **Trustee**  (Length: 6:08) | This video (4 of 5) explains the role of the Public Guardian and Trustee and provides an example of how the Public Guardian and Trustee can assist. | <https://www.youtube.com/watch?v=G2VXRm52ju4&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF&index=21> | CC BY-NC-ND (<https://creativecommons.org/licenses/by-nc-nd/3.0/>) |
| **The Role of the Police**  (Length: 5:51) | This video (5 of 5) explains the role of the police and provides an example of how the police can assist. | <https://www.youtube.com/watch?v=nUQxcDog_nI&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF&index=23> | CC BY-NC-ND (<https://creativecommons.org/licenses/by-nc-nd/3.0/>) |

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| Vancouver Coastal Health (VCH), ReAct Adult Protection Program http://www.vchreact.ca | | | |
| Title | Description | Link | CC License |
| Dr. Chief Robert Joseph (Length: 2:00) | Chief Joseph discusses possible roots of abuse and neglect and a need for a seismic shift. | <https://www.youtube.com/watch?v=oPI77UYXnNA&index=12&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF> | CC BY-NC-ND (<https://creativecommons.org/licenses/by-nc-nd/3.0/>) |
| Dr. Calliou (Length: 7:38) | In an interview, Dr. Calliou discusses the situation of older Aboriginal women who, in being abused, are being re-victimized following a lifetime of oppression. | <https://www.youtube.com/watch?v=oN63c7bEeR4&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF&index=9> | CC BY-NC-ND (<https://creativecommons.org/licenses/by-nc-nd/3.0/> |
| Mary’s Story (Length: 8:58) | In a series of scenes, a woman’s experience of abuse and her recovery from abuse are shown. | <https://www.youtube.com/watch?v=u1EnpajCCSI&index=11&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF> | CC BY-NC-ND (<https://creativecommons.org/licenses/by-nc-nd/3.0/> |
| With Love and Respect (Length: 5:57) | The role of Community Response Networks is explained in a First Nations context. | <https://www.youtube.com/watch?v=_1c3JcF2Va8&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF&index=14> | CC BY-NC-ND (<https://creativecommons.org/licenses/by-nc-nd/3.0/> |

| Western Education, Centre for Research and Education on Violence Against Women and Children (It’s Not Right! Neighbours, Friends and Families for Older Adults)  http://itsnotright.ca | | | |
| --- | --- | --- | --- |
| **See the Debriefing Notes section for videos listed below** | | | |
| Title | Description | Link | CC License |
| The Babysitter (Length: 1:04) | A woman is pressured to spend more time caring for her grandchild. | <https://www.youtube.com/watch?v=62g98nMO_fk&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF&index=5> | CC BY-NC-ND  <https://creativecommons.org/licenses/by-nc-nd/4.0/> |
| The Babysitter Response (Length: 49 seconds) | A friend responds to the woman’s situation. | <https://www.youtube.com/watch?v=UanfKJgzGZA&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF&index=7> | CC BY-NC-ND  <https://creativecommons.org/licenses/by-nc-nd/4.0/> |
| Alone at Mom’s (Length: 2:01) | A woman talks on the phone about the challenges she faces in caring for her mother. | <https://www.youtube.com/watch?v=WFzEYumjG6o&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF&index=4> | CC BY-NC-ND  <https://creativecommons.org/licenses/by-nc-nd/4.0/> |
| Alone at Mom’s Response (Response: 1:04) | A friend on the phone responds to the woman’s concerns. | <https://www.youtube.com/watch?v=m1Jh_wquRCU&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF&index=1> | CC BY-NC-ND  <https://creativecommons.org/licenses/by-nc-nd/4.0/> |
| I Want To Go Home (Length: 2:02) | A woman on the phone describes the stresses of living with her son; the son on the phone to someone else describes the stresses of living with his mother. | <https://www.youtube.com/watch?v=wKPv3nOvkl0&index=2&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF> | CC BY-NC-ND  <https://creativecommons.org/licenses/by-nc-nd/4.0/> |
| I Want To Go Home Response 1 (Length: 43 seconds) | The woman’s friend responds to her situation, suggesting she make the best of it. | <https://www.youtube.com/watch?v=OO5WCAeldSM&index=13&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF> | CC BY-NC-ND <https://creativecommons.org/licenses/by-nc-nd/4.0/> |
| I Want To Go Home Response 2 (Length: 41 seconds) | The woman’s friend responds to her situation, providing support for her decision-making. | <https://www.youtube.com/watch?v=5uOcwp24nZw&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF&index=6> | CC BY-NC-ND <https://creativecommons.org/licenses/by-nc-nd/4.0/> |
| The Professor (Length: 1:25) | A retired professor expresses financial concerns; his son appears to control his finances. | <https://www.youtube.com/watch?v=deRATEmZfL4> | CC BY-NC-ND  <https://creativecommons.org/licenses/by-nc-nd/4.0/> |
| The Professor Response 1 (Length: 1:25) | The professor’s visitor responds to his concerns. | <https://www.youtube.com/watch?v=Zy101DoYLNY> | CC BY-NC-ND <https://creativecommons.org/licenses/by-nc-nd/4.0/> |
| The Professor Response 2 (Length: 51 seconds) | The professor’s visitor responds to his concerns. | <https://www.youtube.com/watch?v=NHR2HN8ZqL8> | CC BY-NC-ND <https://creativecommons.org/licenses/by-nc-nd/4.0/> |

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| Vancouver and Lower Mainland Multicultural Family Support Service Society  http://www.vlmfss.ca | | | |
| Where Is My Home? (Length: 13:23) | With assistance from friends, her doctor and a social service agency, a woman from Hong Kong overcomes abuse by her daughter-in-law in Canada. | <https://www.youtube.com/watch?v=QNyxNanA7qY&index=18&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF> | CC BY-NC-ND <https://creativecommons.org/licenses/by-nc-nd/4.0/> |

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For more information on best practices for attribution: https://wiki.creativecommons.org/Best\_practices\_for\_attribution

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| Western Education, Centre for Research and Education on Violence Against Women and Children (It’s Not Right! Neighbours, Friends and Families for Older Adults)  http://itsnotright.ca | | | | |
| Title | Description | Relevant section of guide | CC License | |
| Debriefing Notes for Videos | Facilitator’s notes to be used with videos from Western Education, the Centre for Research and Education on Violence Against Women and Children. | Competency 1, 2, 3, and 4  See section following Appendix 2 | CC BY-NC-ND (<https://creativecommons.org/licenses/by-nc-nd/3.0/> | |
| **Public Guardian and Trustee (PGT)**  http://www.trustee.bc.ca | | | | |
| How to Assist an Adult Who is Abused, Neglected or Self Neglecting – A Decision Tree for Effective Referrals for Adults in BC Who May be Vulnerable and /or Incapable (The Decision Tree). | How to Assist an Adult Who Is Abused, Neglected or Self-Neglecting—documents resulting from a collaborative effort between the PGT, RCMP and Fraser Health. | Competency 4  See Appendix 3 | | CC BY-NC-ND (<https://creativecommons.org/licenses/by-nc-nd/3.0/> |

## Debriefing Notes for Videos from Western Education, Centre for Research and Education on Violence Against Women and Children (It’s Not Right! Neighbours, Friends and Families for Older Adults)

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### The Babysitter

### Cast

Mother – Sandy Ross

Wife – Nicole St. Martin

Son – Andrew Moody

Friend – Kris Truelson

### Is there abuse happening? If so, what kind?

Emotional abuse – threatening to withhold access to her grandson

Financial abuse – not paying for her time or offering to pay for her time

### What is the abusive behaviour?

Controlling behaviour

Sandy is being coerced, threatened

Not allowing her the right to freely make decisions and choices

Strong sense of entitlement – Her wishes are ignored, her time is not valued, and it is expected that she will give whatever support is required without thought for herself.

Treating her like a child – in the sense of “do what we say”

### What are the risk factors?

The couple seems to be dependent on her

What are the ageist attitudes that are explicit and implicit in this scene?

Sandy is retired and so is always available

She doesn’t need to be compensated because she has her own money

Her time is not as important, her wishes are not important

The ageist attitudes justify the behaviour – the couple would not see themselves as being abusive

### What are the intersecting issues?

Sexism is present ̶ sexism in the sense that women have less rights and are assumed to ”serve” the family

Racism may also be a factor. The daughter-in-law appears to be treating her mother-in-law like a servant – are there racist overtones?

Institutional issues ̶ social policies set agendas – if formal childcare not available the burden is transferred to more vulnerable people

Economy – two incomes needed to run the household

### Who has the power? What are the dynamics in the relationship that tilt it toward abuse?

The adult children are threatening to cut off her relationship with her grandchild if she doesn’t comply with their demands

The young couple is behaving as if her reason to be is for their convenience

### What is the harm?

Sandy is not free to say “no” without jeopardizing the relationship

The relationship with her son and daughter-in-law will be harmed because they don’t ask her; there is no attempt to reach a mutual solution

She has little opportunity to contribute to the family on her own terms

Sets the stage for social exclusion by isolating her from her friends and activities

### If you are her friend, how might you support the Sandy?

See the struggle she is experiencing

Validate her right to make choices

Validate her right to have a relationship with her grandson

Ask how you can support her

It may be hard for her to talk about what is happening

Let her know you are available to listen

### Scenario Response

Peter is worried about Sandy. Notice that he begins his conversation by making light of the situation. It will not have the desired effect and he will try something else. He taps into his concern and relays that to her. He touches her arm. He asks a question.

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### I Want to Go Home

### Cast

Jamal ̶ Sanjay Talwar

Huda ̶ Ronica Sajnani

### Is there abuse happening? If so, what kind?

If there is abuse, it is not overt. Huda’s comments give a few cues – how much and what kind of a “fuss” does Jamal make when Huda asks for “her” money?

### What is the abusive behaviour?

In her conversation, Huda tells her friend that she has no access to her money, this could be financial abuse

She also says that she has “nothing of her own” and that when she asks for money from Jamal, he makes a fuss

She is providing childcare and is running the household, it seems without compensation or concern for her capacity or wishes

### What are the risk factors?

Huda is a newcomer to Canada – she may be experiencing isolation in the sense that she is dependent upon Jamal and does not know what supports / rights are available to her

It is a shared living situation

Jamal may be dependent on Huda’s contributions, both financially and in the sense that she is running the household

Huda is clearly unhappy, possibly depressed about her life and wants to go home

### What are the ageist attitudes that are explicit and implicit in this scene?

Jamal believes that Huda owes him a debt for bringing her to Canada

He does not listen to her – which may be because she is older, or because she is a woman or both

Ageism and sexism are both present in the sense that it is assumed that Huda will serve the family without regard for herself

### Cultural Factors

Huda and Jamal live in a collectivist culture with collectivist values – the wellbeing of the community is more important than individual desires. This complicates situations for individuals for whom the wellbeing of the community is also a personal priority. Huda will not want to shame Jamal in front of the community by exposing her unhappiness.

In the scene, Huda has said she wants to go home. If her circumstances were different and she had no choice but to stay in Canada, if Jamal is her sponsor and the relationship is abusive, she will face considerable barriers to accessing help. One of the primary objectives of the *Immigration Act* and Immigration Regulations is to remove those without status and deny admission to those who breach its provisions. The effect is to significantly impede the ability of an immigrant woman to access and obtain justice.

It is possible that the two generations are possibly caught between cultures. Jamal may be losing connection to the collectivist culture he came from where mom is likely still more connected to it.

Note – challenge discriminatory comments

### What are the power dynamics in the relationship that tilt it towards abuse?

Jamal feels entitled to take control of Huda’s money and time

Jamal does not see his behaviour as abusive and considers his mother as being indebted to him

Huda will not want to bring shame to Jamal by complaining about her situation – there will be pressure from the wider community to accept it

Huda is a stranger in the country and is dependent on Jamal and his family to help with her integration process

### What is the harm?

Huda feels that she is being treated like a servant – this will erode her relationship with her family and her own sense of value

Jamal may be using Huda’s resources to support or supplement his family – in the worst case scenario, he is stealing her money. This will erode Huda’s ability to be independent and to have choices

Her quality of life is compromised. Huda is isolated and wants to leave. She is afraid to raise it with Jamal and yet is unhappy with her life – she is caught

### If you are her friend, how might you support Huda?

Appreciate her assertion that Jamal “is a good man”

Acknowledge her unhappiness and disappointment as well as her wish to go home

Understand that there is a cultural dynamic in play, Huda may keep quiet, not feel safe to talk out of concern for casting a bad light on her family – she doesn’t want to appear ungrateful

Validate her right to make choices – and appreciate that her choices will take the well-being of her family and community into consideration

Be knowledgeable about available supports and resources that may aid her better integrate into Canadian society. This includes understanding applicable Canadian laws that protects personal property

Offer to help her integrate into Canadian society by inviting her out to local social and cultural events

### Scenario Response

In the non-supportive response, her friend tells Huda not to “rock the boat” and advises her to go along with the situation and to try to “be happy.” This may heighten Huda’s sense of guilt about being “ungrateful” and further isolate and/or silence her altogether.

In the supportive response, Huda’s friend acknowledges the high personal expectations of Jamal and Huda and encourages her to think about her life independently.

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### Alone at Mom’s

### Cast

Daughter – Victoria Snow

Mother – Anne Anglin

Situation – Anne has dementia and her health is compromised. She was recently hospitalized with undiagnosed symptoms that wouldn’t allow her to eat, but was released because she was deemed well enough to go home. Victoria was asked to take her mother home because she was “blocking a bed” for a patient with a more serious issue. Anne is not well but there is not a clear issue. She is increasing absent mentally, and she is still having trouble eating, and so Victoria doesn’t feel like she can leave her alone. Victoria has a full-time job and a household of her own. She is unprepared for the situation and fears that her mother will never recover her ability to live independently. She is feeling under siege by other family members and professionals who are critical of her efforts and even making allegations that Victoria may be neglecting her mother’s care and acting improperly with respect to her mother’s money.

### What are the intersecting issues?

There may be sexist assumptions and expectations that assign Victoria the role of primary caregiver because she is a woman

Attitudes about dementia that focus on the burden and loss of independence

Attitudes about dementia that focus on the diagnosis rather than the person

Economic issues – does Anne have resources? What about Victoria’s job?

### Scenario Response

The friend listens and acknowledges the tough situation. She recognizes that Victoria is overwhelmed and so makes a concrete suggestion about how to help by gathering other concerned friends and families and to find out what resources are available to support Victoria. She doesn’t impose the idea; she checks to be sure the Victoria thinks it is helpful.

### Possible Discussions:

How do we ensure that when family and friends become caregivers – that they have the necessary skills and support that will be meaningful?

Do we set people up to be abusive?

How do we challenge ageist assumptions that the increasing dependence of an older adult means the relationship is no longer mutual? How can we emphasize the mutuality of all relationships?

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### The Professor

### Cast

Professor – Art Hindle

Beth – Victoria Snow

### Is there abuse happening? If so, what kind?

The professor has given Power of Attorney to his son – the problem with the property taxes may be a warning sign

The professor reveals that his son appears to be living a lavish life while he is wearing a coat that is too small, stained, ripped and not appropriate for winter. It could be warning signs of financial abuse and neglect

### What is the abusive behaviour?

In this scene, we have only the professor’s account of what is happening. It does raise concerns about financial abuse and possibly neglect as his physical and emotional needs may not be being addressed

His family does not visit him – this could be a form of emotional abuse with ageist overtones that convey the message he has no value

### What are the risk factors?

Isolation – we don’t know the professor’s support system, Beth may be his only friend

Unpaid property taxes even though the professor indicates he has the means to pay them

### What are the ageist attitudes that are explicit and implicit in this scene?

He is not important to his family, possibly viewed as a burden

He may not have been consulted about moving – as if his right to choice diminishes because he is older

Possibly sexism – assuming that he can’t look after himself because he is a man

### What are the power dynamics in the relationship that tilt it towards abuse?

His son has Power of Attorney and the property taxes are unpaid. Assuming the professor is not cognitively impaired, the surprise of the situation indicates that he is not being kept informed about his finances

### What is the harm?

The professor’s assets may be being stolen

Son may be violating civil rules of what it means to be a trustworthy substitute as POA and the possible stolen property may constitute a criminal offence

If so, this is a betrayal which will erode his choices and wellbeing – raises the question about why he isn’t managing his own funds

The professor says he has been “trundled off to this warren for the aged.” From the comment, one could infer that he doesn’t appear to like where he is or possibly that he didn’t want to move there

There is no evidence that he cannot manage to live independently

### If you are his friend, how might you support the professor?

Ask the professor to talk more about his changed situation and how he feels about it.

Validate his rights and feelings

Find information about what the POA means for him

Offer to support him in following up on the unpaid taxes

### Scenario Response

In the non-supportive response, Beth jumps to the possibility or judgement that his son is stealing money. Although it is an easy leap to make given the information being relayed, it is still a leap that will put the professor on the defensive about his son. This may further isolate him

In the supportive response, Beth acknowledges that there boundaries between them that she wants to respect. In observing those boundaries, she acknowledges her concern but does not press him about his son. Instead offers her support in a general way.

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# Appendix 3: Readings

## Definitions of Elder Abuse and Neglect: What Are They and Why Do They Matter?

*Krista James, National Director, Canadian Centre for Elder Law*

### Legal Definitions of Elder Abuse

**LEARNING**

**GOALS**

By the end of this reading, you will be familiar with:

**1.** Key definitions of elder abuse and neglect

\*

**2.** The value of defining terms like elder abuse and neglect

\*

**3.** Challenges in creating, applying, and adapting definitions

Strictly speaking, there is no legal definition of elder abuse in BC or any other Canadian jurisdiction. Instead legislation defines the broader concept of adult abuse or neglect, or types of abuse, as well as a number of age-neutral crimes that may present examples of elder abuse or neglect.

Law does not exist in a social vacuum. Rather, lawmakers are influenced by various communities and in fact have consulted broadly to inform law and policy in relation to elder abuse and neglect.[[1]](#footnote-1)

Many laws impact on rights and responsibilities in relation to elder abuse and neglect. This reading focuses on laws applicable to BC that clarify the meaning of elder abuse and neglect.

Laws that apply to abuse vary across the country. In the context of practice it is very important to be aware of the laws that apply to the province or territory in which you are currently working. If your practice is national you may need to inform yourself of the laws of many provinces or territories, and compare those differences. Be aware that there can be significant conceptual differences between laws applying to elder abuse and neglect in different provinces or territories.

**Extra reading**: For a comparative analysis of how the legislation varies across the country see the following CCEL papers: *The Counterpoint Project Discussion Paper—Moving From Scrutiny to Strategy: An Analysis of Key Canadian Elder Abuse and Neglect Cases* and the *Practical Guide to Elder Abuse and Neglect Law in Canada*.

### Adult Protection and Guardianship Legislation in BC

In Canada, the meaning of adult abuse and neglect is primarily addressed at the provincial and territorial level, through adult protection legislation. There is no federal law—i.e. a law that applies throughout Canada—that defines elder abuse or neglect, other than possibly the Criminal Code, which is discussed further in this reading.

British Columbia defines elder abuse and neglect within the framework of guardianship law as follows:[[2]](#footnote-2)

|  |
| --- |
| **Abuse:** The deliberate mistreatment of an adult that causes the adult (a) physical, mental, or emotional harm, or (b) damage to or loss of assets, and includes:   * intimidation * humiliation * physical assault * sexual assault * over-medication * withholding medication * censoring mail * invasion or denial of privacy * denial of access to visitors   **Neglect:** any failure to provide necessary care, assistance, guidance, or attention to an adult that causes, or is reasonably likely to cause, within a short period of time, the adult serious physical, mental, or emotional harm, or substantial financial damage or loss to the adult, and includes self-neglect.  **Self-neglect:** any failure of an adult to take care of himself or herself that causes, or is reasonably likely to cause, within a short period of time, serious physical or mental harm or substantial damage or loss in respect of the adult's financial affairs and includes:   * living in grossly unsanitary conditions * suffering from an untreated illness, disease, or injury * suffering from malnutrition to such an extent that, without intervention, the adult's physical or mental health is likely to be impaired * creating a hazardous situation that will likely cause serious physical harm to the adult or others or cause substantial damage to or loss of property * suffering from an illness, disease, or injury that results in the adult dealing with his or her financial affairs in a manner that is likely to cause substantial damage or loss in respect to those financial affairs |

Unique to BC (and the Yukon, whose statute closely mirrors British Columbia's) the definition limits abuse to “deliberate” or intentional mistreatment.

**Consider**

What are the advantages and disadvantages of limiting the definition of abuse to “deliberate” or intentional mistreatment? What kinds of “abuse” could get missed under this approach?

**(a) Types of Abuse**

As is common with definitions that appear in the laws of other provinces or territories, as well as other literature, the legal definition of abuse found in the BC *Adult Guardianship Act* references various types of harm or abuse. Most legal definitions in Canada capture physical, mental, emotional, sexual, and financial abuse, as well as neglect. The BC definition includes:

* Physical harm
* Mental or emotional harm (intimidation, humiliation)
* Medication abuse (withholding and over-medicating)
* Damage to or loss of assets (financial abuse)
* Physical and sexual assault (capturing most instances of sexual abuse)
* Isolation (denial of access to visitors)
* Violation of privacy rights (censoring mail, invasion or denial of privacy)

Internationally, we find additional types of abuse referenced in law and policy, e.g.:

* *Social abuse*: Restricting social freedom and isolation from family and friends (Australia)[[3]](#footnote-3)
* *Systemic abuse*: When government or institutional policies and regulations create or facilitate harmful situations or situations that undermine dignity[[4]](#footnote-4)
* *Abandonment*: The desertion of a vulnerable elder by anyone who has assumed the responsibility for care or custody of that person[[5]](#footnote-5)
* *Medical abuse*: Any medical procedure or treatment done without the informed consent of the senior or his or her proper legal substitute decision-maker[[6]](#footnote-6)
* *Medication abuse*: Misuse of a senior’s medications and prescriptions, including withholding medication, sedation and overmedicating.[[7]](#footnote-7)
* *Spiritual abuse* (or neglect)Restriction or loss of a person's spiritual practices, customs, or traditions, including using an older person's religious or spiritual beliefs to exploit, attacking a person's spiritual beliefs, and not allowing the older person to attend the church, synagogue, or temple of his or her choice[[8]](#footnote-8)
* *Confinement*: restraining or isolating an older person for other than medical reasons[[9]](#footnote-9)

**Consider**

Compare the types of abuse referenced in the *Adult Guardianship Act* to the broader list above. Do you think that any key types of abuse are absent from the definition?

### 

### Community Care and Assisted Living in BC

Anyone running a community care facility in BC (called a licensee in the statute) has an obligation to respond to abuse that comes to his or her attention. Staff are required to report abuse to supervisors so licensees can investigate and meet their legal obligations.

Definitions of abuse can also be found in laws regulating residential care homes and assisted living facilities. Residents can be especially vulnerable to abuse, due to physical and mental disabilities, chronic health problems, mental capacity limitations and the reality that they rely on other individuals to provide intimate care and other assistance. The Regulation applying to community care facilities does not define abuse generally, but it defines types of abuse. Definitions appear below.

**Emotional abuse** means any act, or lack of action, which may diminish the sense of dignity of a person in care, perpetrated by a person not in care, such as verbal harassment, yelling, or confinement.

**Financial abuse** means:

1. the misuse of the funds and assets of a person in care by a person not in care, or
2. the obtaining of the property and funds of a person in care by a person not in care without the knowledge and full consent of the person in care or his parent or representative.

**Neglect** means: the failure of a care provider to meet the needs of a person in care, including food, shelter, care, or supervision.

**Physical abuse** means: any physical force that is excessive for, or is inappropriate to, a situation involving a person in care and perpetrated by a person not in care.

**Sexual abuse** means: any sexual behaviour directed towards a person in care and includes:

1. any sexual exploitation, whether consensual or not, by an employee of the licensee, or any other person in a position of trust, power, or authority, and
2. sexual activity between children or youths, but does not include consenting sexual behaviour between adult persons in care.

### Criminal offences related to elder abuse

With respect to criminal law in Canada, there is no specific crime of 'elder abuse' under the Criminal Code[[10]](#footnote-10), the federal statute that creates criminal offences. There is also no other Canadian legislation which criminalizes mistreatment of elderly people in particular. However, this does not mean that it is legal to harm older people in Canada. Instead, it means that the mistreatment of older adults must be captured by general criminal law provisions that already exist within the Criminal Code in order to be considered crimes.

Examples of criminal offences which involve the language of elder abuse include:

* Neglect cases prosecuted under the failure to provide the necessities of life (s. 215)
* Manslaughter where abuse or neglect causes unintentional death (s.234)
* Home invasion cases prosecuted under the robbery and breaking and entering provisions (ss. 344(b) and 349(1)
* Sexual assaults (s.271(1))
* Physical assault (s. 265)
* Fraud (s.380(1)
* Theft (s. 324)
* Theft by a person holding a power of attorney (s. 331)
* Misappropriation of money held under direction (s. 332)
* Criminal breach of trust (s. 336)
* Theft or forgery of a credit card (s. 342)
* Extortion (s. 346)
* Forgery (s. 366)
* Uttering threats (s. 264.1.)
* Intimidation (s. 423)
* Unlawful confinement (s. 279)

**Consider**

Not all forms of elder abuse or neglect would be captured by criminal law. Can you think of some examples of mistreatment of older people that would not amount to a crime?

### Advanced Learning Option: Comparison with Other Provinces and Territories—Non-criminal domestic abuse legislation

In BC adult abuse is defined in the context of a comprehensive law that:

1. sets out who has authority to respond to abuse; and
2. identifies the kinds of responses that are possible under the law, including guardianship.

Some provinces and territories define abuse in the context of other kinds of legislation. Several provinces (Alberta, Manitoba, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, Saskatchewan) and all three territories (Northwest Territories, Nunavut and Yukon) have enacted domestic violence legislation that provides civil remedies, such as emergency protection orders, to victims of family violence. These remedies are available under the law as alternatives to *criminal* remedies, such as a peace bond, or a no-contact order.

These laws were drafted to address the more specific subcategory of family violence and do not refer specifically to older adults. However, as these statutes apply to various types of relationships (i.e. marital, intimate, familial), these laws can apply to harms committed on older adults in the context of a relationship.

The Nunavut legislation provides the most expansive list of types of relationships, including a “care relationship” defined as existing “between two persons, whether or not they have ever lived together, if one person is or was dependent on the other person for assistance in his or her daily life activities because of disability, illness or impairment.” The terminology “daily activities” is defined as follows: “daily activities include personal grooming, preparing meals, shopping for groceries, taking care of financial affairs, making appointments and arranging transportation to appointments.”[[11]](#footnote-11) Such a definition would take into account seniors living in assisted living facilities, for example, who remain mostly independent, but rely on their housing facilities to arrange transportation or occasionally preparing meals.

Every Canadian statute of this kind uses the term “violence”, with the exception of Nunavut where the word “abuse” is used. Different forms of violence are listed within most of these laws, including:

* physical abuse
* damage to property
* sexual abuse
* an act, threat or omission causing reasonable fear of bodily harm
* damage to property
* forced confinement.

While some acts also include psychological or emotional abuse, Nunavut is the only legislation which defines “mental or emotional abuse”, defined as:

|  |
| --- |
| 1. a pattern of behaviour of any kind, including verbal statements, the purpose of which is to deliberately undermine the mental or emotional well- being of a person, and 2. includes repeated threats made with the intent to cause extreme emotional pain to a person, a child of or in the care of a person or a family member of a person.[[12]](#footnote-12) |

In four provinces and territories (Prince Edward Island, Yukon, Newfoundland and Labrador, and Nunavut), the deprivation of food, clothing, medical attention, shelter, transportation or other necessities of life are included as forms of family violence.The *Nunavut Act* also provides that “conduct of any kind the purpose of which is to control, exploit or limit a person’s access to financial resources for the purpose of ensuring the person’s financial dependency” is a form of family violence.

### Key Non-legal Definitions of Elder Abuse

The law is influenced by definitions that are not strictly speaking legal. These non-legal definitions are useful in enhancing our understanding of elder abuse and neglect. One of the most often cited definitions of elder abuse is the definition that appears in the *Toronto Declaration on the Global Prevention of Elder Abuse* (the *Toronto Declaration*):

*Elder abuse is a single or repeated act, or a lack of appropriate action, occurring within any relationship where there is an expectation of trust, which causes harms or distress to an older person.[[13]](#footnote-13)*

The *Toronto Declaration* is an international call to action jointly authored by the World Health Organization (“WHO”), the University of Toronto, and the International Network for the Prevention of Elder Abuse (“INPEA”). It was developed in a multi-disciplinary context. The *Toronto Declaration* adopts the definition originally developed by the U.K. organization Action on Elder Abuse.[[14]](#footnote-14) This definition does not emerge from a strictly legal source; however, it has been cited in a number of legal sources, such as court decisions and government documents.[[15]](#footnote-15) Moreover, the WHO is an agency of the United Nations, an international legal organization, and this definition is currently referenced in UN materials. Therefore, this definition is too significant and influential to ignore, even if it is not a “legal” definition under Canadian law.

Recently, the Government of Canada funded the National Initiative for the Care of the Elderly (“NICE”) to lead research to establish a consistent and agreed-upon definition of abuse of older adults for use in the social sciences sector. NICE finalized a definition for use in Canada that was developed by consensus by working with key researchers and stakeholders working in the areas related to elder abuse and neglect. The definition is:

|  |
| --- |
| Mistreatment of older adults refers to actions and/or behaviours, or lack of actions and/or behaviours, that cause harm or risk of harm within a trusting relationship. Mistreatment includes abuse and neglect of older adults.[[16]](#footnote-16) |

Another useful plain language definition of senior abuse was recently developed by the Centre for Research & Education on Violence Against Women and Children at the University of Western Ontario. The definition appears in the series of educational tools entitled *“It’s Not Right!” Friends, Neighbours and Families for Older Adults*. The tools characterize senior abuse as, “harm caused to older adults by someone who *limits or controls* their rights and freedoms,” noting further that:

The older adults are *unable to freely make choices* because they are afraid of being hurt, humiliated, left alone or of the relationship ending. Abuse is different from situations where two people are in conflict with each other. These people may do things to hurt each other, and fights can escalate to violence. However, both people have power in the relationship… It is abuse when one person uses their power or influence to take advantage of, or to control, the older adult.[[17]](#footnote-17)

Key themes that emerge from these definitions are:

* Harm to an older person
* Risk of harm
* Action or inaction
* Trust
* Imbalances of power
* Using power to control another; and
* Limiting someone’s rights and freedoms.

### Consider

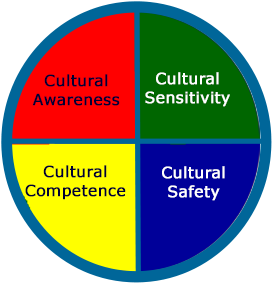
All three of these definitions reference relationships. Can you think of examples of elder abuse that might not arise in the context of a relationship? Why do you think that a reference to relationships appears so often in definitions of elder abuse? How can awareness of this theme support your practice?

### Additional Reading

L. McDonald and A. Collins, for the Family Violence Prevention Unit,

Health Canada. Abuse and Neglect of Older Persons: A Discussion Paper, 2000, esp. 4-11, online: http://publications.gc.ca/site/archivee-archived.html?url=http://publications.gc.ca/collections/Collection/H88-3-30-2001/pdfs/violence/abuse\_e.pdf

## Considering Culture and Cultural Care

*June Kaminski, BSN-PB Program Coordinator, Kwantlen Polytechnic University. *

Culture is complex. It is more than just a person’s ethnic or racial origins and their religious affiliation; it is a word that describes the whole human package of beliefs, values and social practices. Every older adult, like every other human being, is a person who lives in a culture. Older adults are not identical and interchangeable, any more than anyone else is. Being aware of the complexity of culture is important in understanding healthy life and relationships for older adults, and in understanding abuse, neglect and self-neglect.

Recent research with Aboriginal people has resulted in several culture-related terms that are similar, yet have unique meanings. This section introduces some of these terms, including cultural awareness, cultural sensitivity, cultural competence, and cultural safety. Although these terms are applicable to all people, the initial work was done with Maori Aboriginal cultures. Research and practice in cultural competency and safety now includes a focus on many different groups of people, including lesbian, gay, bisexual and transgendered individuals.

Understanding cultural awareness, sensitivity, competence and safety and the practices each term describes will help you approach older adults with sensitivity and understanding.

### Cultural Awareness

A basic definition of *cultural awareness* is an initial acknowledgement of cultural difference. This means being aware of different ways to maintain and promote health and well-being. Cultural awareness is an important skill, since it is critical for working with people in respectful ways. Cultural awareness entails becoming familiar with common values, beliefs, rituals, religions, taboos and social practices of various cultural groups. This awareness includes knowledge and facts about culturally related history and experiences. Such awareness is important and is sometimes considered a basic step toward the development of cultural sensitivity, cultural competence, and cultural safety.

Becoming culturally aware requires that you to take an unbiased mental view of people, and to also be aware of how your own culture influences their work-related roles. Cultural awareness is an initial understanding that there is difference between cultures, and that these differences should be appreciated and acknowledged.

However, if one only has awareness, it is easy to fall into the trap of assuming all members of a particular culture share the exact same traits and behaviours. For instance, someone might believe that all Asian people are lactose intolerant, or that all First Nations adults suffer from trauma due to their childhood experiences of going to residential school, or that all members of a particular culture are talented singers. “Cultural awareness” must not be used as an excuse to avoid thinking about individual differences.

It is also important to remember that cultures change over time, and that individuals within cultures may or may not subscribe to all the cultural practices and beliefs of their original culture. Consider the situation of families immigrating to Canada, for example. The younger generation, growing up in Canada, grows up in the dominant Canadian culture. Their parents and grandparents may continue to view the world through the lens of their original culture. This can lead to culture clash between the generations, and can add complexity to the situation of older adults in the family.

It is also important that people develop cultural awareness of themselves and how they bring their culture to their work, both consciously and unconsciously. Ideally, people exercise self- awareness to effectively develop cultural awareness, where they recognize their own feelings and beliefs about particular cultures and cultural practices, and recognize any incidences of cultural bias or even prejudice.

Often, cultural awareness is seen as a first step in the development of cultural sensitivity since it provides the initial knowledge and insight necessary to become sensitive to cultural uniqueness in others and one’s self**.**

### 

### Cultural Sensitivity

*Cultural sensitivity* goes beyond awareness to include responses and expectations that consider stereotypic traits of a particular culture. We are culturally sensitive when we avoid behaviours that might be considered rude by another culture. For instance, maintaining eye contact is very respectful in some cultures but rude and intrusive in other cultures. Cultural sensitivity also occurs when we avoid certain words, gestures, or behaviours that might offend someone else from another culture.

This brings with it a danger of losing sight of the individual, and perceiving them simply as a member of a particular cultural group. It is important to avoid the ‘recipe’ approach to culture, so often seen when only cultural sensitivity is applied. People also need to develop sensitivity to their own experiences and expressions of culture, and how these influence their ability to interact with others in meaningful and helpful ways.

### 

### Cultural Competence

*Cultural competence* is the ability to interact with others in ways that reflect sound knowledge and understanding of a person’s culture, while also respecting and honouring the uniqueness of the individual. Achieving cultural competence means learning about the culture of the other person; sharing in the traditions of other cultures; communicating between and among cultures; and demonstrating skill outside one’s culture of origin.

Cultural competence goes beyond making concessions for cultural practices and beliefs. It prompts action on the person’s behalf, where understanding and action are developed and applied within a climate of cultural respect and insight. Cultural competence also means that one avoids being reductionist with respect to people and their culture: we take the time to learn about the culture of others but avoid stereotypic thinking.

### Cultural Safety

Cultural safety is considered to be the highest level of cultural care since people are viewed as the best judge of whether interactions feel safe and supportive of their own needs. Cultural safety includes well-developed knowledge about particular cultural groups and appropriate caring behaviours that respect their cultural uniqueness. It includes awareness of the particular situations individuals may experience because of their membership in particular groups; for example, discrimination in housing that may be faced by older gay couples requiring supportive housing, language barriers that may be encountered by older adults from other countries, and distrust of care institutions that may be felt by First Nations residential schools survivors. The key feature of cultural safety is that the individual receiving a care or service determines whether the care or service they are receiving feels safe to them. Feeling safe means different things to different people since each person is unique. Care must be provided in a unique way, customized to each person’s needs.

Cultural safety is experienced by a person when a care or service provider communicates with them in respectful, inclusive ways, and empowers and supports them in decision-making.

Each individual requires unique care or support, thus it is vital to remember that each client requires individualized care that relies on his/her own preferences, expressed needs and sense of safety. Cultural safety is expressed most fully when interventions and interactions are determined by the person in question and supported by the person’s culturally conducive community.

Cultural safety recognizes and addresses the power imbalances that can occur when people interact with various aspects of society such as education, health care, legal systems, financial systems, and so on. It shifts the power back to the person and provides support for them to make decisions that feel right and safe to them.

Respect addresses the dignity of people, and encompasses the honouring and valuing of who they are as a unique person. Inherent in the overarching principle of respect is the honouring of rights, autonomy, choice, worthiness, uniqueness, and self-determination. Respect is not reserved for those with special societal status, income level, intellect, power or attractiveness: respect is deserved by all people of all cultures. It is considered a fundamental attitude and is a strong component of caring, empathy, support, acceptance, cultural competence, and cultural safety.

## Applying the Principles of Cultural Competence and Cultural Safety in Working with Aboriginal Older Adults

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### Pre-reading

National Initiative for the Care of the Elderly. (2011). *Being Least Intrusive: An Orientation to Practice for Front-Line Workers Responding to Abuse of Aboriginal Older Adults*. Toronto: NICE. Retrieved July 6, 2014 from <http://www.nicenet.ca/files/BLI.pdf>

### 

### Objectives

This reading has been developed in order to help learners to:

* Understand the principles of cultural competence and cultural safety in the context of elder abuse, neglect, and self-neglect.
* Identify ways that cultural competence and cultural safety can enhance responses and interventions for elder abuse, neglect, or self-neglect.
* Recognize the importance of community based responses to Aboriginal elder abuse and neglect.

### 

### Why is cultural competence important in relation to elder abuse?

Achieving cultural competence means learning about the culture of the other; when someone is able to assess from the perspective of other cultures; sharing in the traditions of other cultures; the ability to communicate between and among cultures; and being able to demonstrate skill outside one’s culture of origin.

Cultural competence goes beyond making concessions for cultural practices and beliefs. It prompts action on the person’s behalf, where understanding and action are developed and applied within a climate of cultural respect and insight. Cultural competence also means that one avoids being reductionist with respect to people and their culture: we take the time to learn about the culture of others but avoid stereotypic thinking.

Historically, elders were treated with deep respect in many cultures, including Aboriginal communities. Aboriginal communities were disrupted in many ways by colonial practices including loss of traditional territories, displacement to reservation lands, enforced residential school attendance for children, legal bans against cultural and traditional practices, customs, and language, racial discrimination, and genocide. Entire generations grew up in the residential school system without proximity or relationships with their parents, grandparents, or extended families. This caused a disruption in parenting and the experience of being parented. It also exposed many of the children to abuse of all kinds, including physical, emotional, sexual, and spiritual. Many of the children who survived the residential school experience grew up to become traumatized adults who did not have a chance to develop cultural ties, practices, or knowledge.

As these generations formed relationships, married and/or became parents, often the traditional ways of raising children to respect their elders and treat them in caring ways was lost. This sometimes diminished the ability of younger people (offspring, grandchildren, etc.) to relate to elders with respect and caring since they were denied cultural grounding and guidance due to enforced colonization.

These circumstances may have also created a great distrust towards any kind of ‘mainstream’ aid or treatment when abuse exists. Measures to help an elder may be perceived as invasive and bring back memories of government and organizational imposition (residential schools, historical memories of reservation systems, genocide, colonialism, racism) especially if provided in a stereotypic way. The perceived power imbalances between the elder and the helper may seem overwhelming to the elder causing them to reject any help.

Community and band centered programs that incorporate strengths and traditional teachings specific to particular peoples may be the most useful to support elders in a culturally competent way.

### 

### Why is cultural competence important in relation to elder neglect?

Socioeconomic problems are another result of colonization that continues to affect many Aboriginal communities. Lack of material and financial resources, inadequate housing and community infrastructure, high cost of food and basic necessities, substance dependence, and disruption of healthy family relationships can all confound the incidence of elder neglect in Aboriginal communities.

Cultural competence helps people to realize the critical factors that could trigger elder neglect within Aboriginal communities and supports the need for traditionally grounded strategies that can help both elders and those who are neglecting them.

### 

### Why is cultural competence important in relation to elder self-neglect?

Traditionally, Aboriginal communities lived within a culture of advanced self—care and development. Children were taught to develop all aspects of themselves physically, mentally, emotionally and spiritually, by their parents, grandparents, aunts and uncles, and other community members.

When children were forced to go to residential schools where they were stripped of their traditional clothes, their hair was cut, food provided was often inadequate, and many were punished for speaking their own language or engaging in traditional practices, they suffered in multiple ways. This suffering all too often led to self-abuse and self-neglect in adulthood. These behaviours were often observed and copied by subsequent generations, which perpetuates a response cycle of self-neglect.

Culture often has a strong influence on how elders experience the aging process. In Aboriginal communities, elders currently experience many conflicting forces that confound their ability to thrive as they age. Historically, elders held highly respected positions in their communities, where they were supported by others to compensate for the physical and mental effects of aging, yet were still involved in community decisions, intergenerational knowledge, passing on of traditions and cultural practices, and the raising of children. Since colonization, many Aboriginal elders age within an atmosphere of violence, historical trauma, substance abuse, poverty, a lack of identity, and both racial and age-specific prejudices. This is confounded by general mainstream cultural attitudes that favour youth and perpetuate ageism.

Ultimately, each elder is an individual, who has developed uniquely due to a variety of experiences and personal attributes. Cultural competence and safety hinge on this recognition. It is important to understand the historical and cultural factors that influence people of various cultures, such as Aboriginal people. However, responders must go further and strive to understand each elder’s individual life situation, lifestyle, cultural beliefs, social preferences, and identity. Each person ages uniquely, with their own worldview and way of living. Supports must be offered that recognize this uniqueness and offers variable strategies that can be useful to every elder in any situation of abuse or neglect.

### 

### Why is cultural safety important in relation to elder abuse?

Cultural safety provides a context where each individual elder feels respected and valued for their history, their traditions and their unique individuality. Cultural safety helps elders and communities to explore interventions, information, and strategies that fit their particular values, beliefs, and preferences. It may also spark culturally safe programs within their own communities that are grounded within the traditional ways of the people.

It is important for responders to be cognizant of a person’s culture when dealing with issues of elder abuse. However, it is also important to consider the individual as unique. Ideally, this means they will be able to work with people who can take the time to talk with them about their own preferences, concerns, situation, and needs. This focus on individuality and uniqueness creates a culturally ‘safe’ space for response and if necessary, intervention. It also directs planning and prevention strategies since elders are viewed as the best judge of whether their care feels safe and supported.

### 

### Why is cultural safety important in relation to elder neglect?

Close to half of Aboriginal families live in low income situations, including elders. Cultural safety is important when considering elder neglect within Aboriginal communities, since a lack of resources may be beyond caregiver control, and be compounded through residual trauma caused from colonization. This can cause feelings of shame, embarrassment, guilt, and fear as well as discomfort about having their privacy interrupted.

Culturally appropriate interventions should be used, but in the context of the elder’s own preferences and unique needs. The elder must feel culturally ‘safe’ to feel comfortable discussing their personal situation, and the people involved.

### Why is cultural safety important in relation to elder self-neglect?

Poverty and lack of resources are often important issues when considering Aboriginal elder self-neglect. As well, historical trauma from colonial practices may influence an elder’s ability to care for their self. Relationships need to be built to facilitate culturally safe prevention and response interventions for Aboriginal elders. Ideally, these would be situated within the elder’s community, where traditional approaches and practices can be offered, yet responded to in unique ways to suit the elder’s own needs.

Cultural safety includes well-developed knowledge about particular cultural groups and appropriate caring behaviours that respects their cultural uniqueness. Aboriginal elders need access to holistic, culturally relevant resources, services, programs and support that meet their needs and allow them to be involved in determining their own self-care. Support strategies should also strengthen identity as an elder and as an important member of the community. Historically, elders were teachers of culture and traditional ways, and usually occupied a respected place in families and the community at large. These respected positions usually enforced high self-esteem and self-care. Strategies that help elders find an active role within their community can help to preserve cultural safety and reduce self-neglect.

Cultural safety is concerned with visible vulnerabilities that stem from contemporary power imbalances, despite a recognition that these are rooted in historical relationships. The key feature of cultural safety is that a person determines whether the care or information they are receiving feels safe to them. Feeling safe means different things to different people since each person is unique. Care and discourse must be provided in a unique way, customized to each person’s needs to successfully help in situations of self-neglect.

### 

### Activities

View Video (Appendix 2): Dr. Chief Robert Joseph (Length: 2:00)

<https://www.youtube.com/watch?v=oPI77UYXnNA&index=12&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF>

View Video (Appendix 2): Mary’s Story (Length: 8:58)

<https://www.youtube.com/watch?v=u1EnpajCCSI&index=11&list=PL50LJVchZ8-IykoYFLc83KVmWXra1P6mF>

Apply the principles from the *Being Least Intrusive* Pre-Reading and the first video by Chief Joseph to the case scenario presented in the second video, Mary’s Story.

* How do the themes of identity, parenting, residential school, and community influence Mary’s story?
* How do they affect her daughter?
* How do the community responders apply the principles of cultural competence and safety to John and Charlie’s situation?

### Reflection

1. How does the *Being Least Intrusive* framework reinforce cultural competence and safety in elder abuse, neglect, and self-neglect?
2. Who should be involved in an Aboriginal Community Response Network? Why?
3. Why are community based programs usually the most effective for Aboriginal people?

### Additional resources

* Dumont-Smith, C. (2002). *Aboriginal Elder Abuse in Canada*. Ottawa: Aboriginal Healing Foundation. Retrieved July 6, 2014 from <http://www.ahf.ca/downloads/ahfresearchelderabuse_eng.pdf>
* Henderson, E. (2011). *Responding to Elder Abuse in Culturally and Linguistically Diverse Communities: a resource for seniors, Section 1: Elder Abuse through a cultural lens.* Guelph, ON:Project Wisdom: Intercultural Awareness of Elder Abuse. Retrieved July 6, 2014 from [http://www.is-gw.ca/storage/project-wisdom/Tool%20Kit%20-%20S1 %20Elder%20Abuse%20Through%20a%20Cultural%20Lens.pdf](http://www.is-gw.ca/storage/project-wisdom/Tool%20Kit%20-%20S1%20%20Elder%20Abuse%20Through%20a%20Cultural%20Lens.pdf)
* NWT Seniors’ Society. (2010). *Making Connections Building Networks to Prevent Abuse of Older Adults Symposium Report,* November 30 – December 1, 2010 Yellowknife, NWT. Retrieved July 6, 2014 from <http://seniors.lamp.yk.com/wp-content/uploads/2013/11/Making-Connections-Building-Networks-to-Prevent-Abuse-of-Older-Adults-Symposium-Report.pdf>
* Struthers, A., Martin, G. & Leaney, A. (2009). *Promising Approaches for Addressing/Preventing Abuse of Older Adults in First Nations Communities - A Critical Analysis and Environmental Scan Of Tools and Approaches.* Surrey, BC: BC Association of Community Response Networks Retrieved July 6, 2014 from <http://www.bccrns.ca/WebLibrary/General/Resources/First%20Nations/Public20130425160252.pdf>
* Struthers, A., L. Neufeld. (2010). *Being Least Intrusive: an orientation to practice in responding to situations of abuse, neglect and self-neglect of vulnerable First Nation adults (Working Paper).* BC Association of Community Response Networks. Retrieved July 6, 2014 from <http://www.bccrns.ca/WebLibrary/General/Resources/First%20Nations/Public20130425160011.pdf>
* Tasmanian Department of Health and Human Services. (2012). *Responding to elder abuse: Tasmanian Government practice guidelines for government and non-government employees*. Hobart, TAS: Tasmanian Department of Health and Human Services. Retrieved July 6, 2014 from <http://www.dhhs.tas.gov.au/__data/assets/pdf_file/0013/112450/120600_Elder_Abuse_Practice_Guidelines_FINAL_0708.pdf>
* View video: Elder Abuse Root Causes (Bear Paw Media Productions) <http://youtu.be/rMFpS7-m3y8>
* View video: Elder Abuse - 3 Types of Abuse (Bear Paw Media Productions) <http://youtu.be/5ow63gPrXm0>

## Background to Prevention

*June Kaminski, BSN-PB Program Coordinator, Kwantlen Polytechnic University.*

Abuse, neglect, and self-neglect experienced by older adults occur within social contexts of families, neighbourhoods, and communities of all kinds, in urban, rural and remote regions. Particular conditions within these contexts increase risk for elder abuse, neglect and self-neglect. Examples of these conditions include isolation, dependency, lack of community support, financial and resource constraints, and crowded living situations. For instance, older Aboriginal people living on a remote reserve that lacks community-based supports may be at risk for elder abuse or neglect from caregivers or others, or for self-neglect.

There are many reasons why older people may be reluctant to disclose to others that they are suffering from abuse or neglect. Common reasons include fear of retaliation or loss of relationships, possessions, or even their home; shame and embarrassment; poor health or mental capacity, and so on. An individual must feel safe to disclose to supportive people who will take the time to explore their situation in a holistic and person-centred way to help them come up with the best solutions for them.

It is important to understand and explore each individual’s barriers when helping them to disclose their situation and make decisions to address the situation or prevent potential abuse or neglect from happening. Each person is an individual, who has developed uniquely due to a variety of experiences and personal attributes. The more supported an older adult feels, the more likely they will feel safe to disclose about their experience and seek solutions as needed. Ideally, the topic of disclosure is explored in a supportive community space where family members join others in the community to discuss the issues and brainstorm ways to prevent abuse, neglect, and self-neglect within their community and neighbourhoods.

Culture can be an important factor in an elder’s ability to disclose to others that they are being abused or neglected. Culturally appropriate prevention strategies should be used within the context of the older adult’s own preferences and unique needs. The individual must feel culturally ‘safe’ to feel comfortable discussing their personal situation, and the people involved. For instance, Aboriginal elders may not feel comfortable revealing family problems to mainstream support people due to historical experiences of forced residential school attendance, racism, and social impositions. They may prefer discussing their situation with people from their own community who know their history and cultural ways.

Supportive communities are a key to effective prevention of abuse, neglect, and self-neglect. Often, disclosure will not happen if an older adult feels they will need to leave their community to get help. When supports are in place where they live, sustainable prevention is much easier to attain. This is particularly true in communities that share the same language, cultural practices, and history, such as Aboriginal communities. Safe and caring communities help elders to feel respected, and to know that they belong and are important to the community, and have rights to dignity, autonomy and personal safety. Communities can provide a proactive and supportive climate for both the elder and their families/caregivers, which is critical for true prevention to occur.

Every community has unique resources available to support the prevention of abuse, neglect, and self-neglect. Ideally, people from all walks of life will take the time to discover what resources are available in their community and know how to implement them as necessary. As well, people can become familiar with provincial and national resources available on the Internet to augment resources available from local organizations, in public libraries, and other community places.

### 

### Primary, Secondary, and Tertiary Prevention

A variety of prevention strategies exist that can be categorized as primary, secondary or tertiary.

|  |  |  |
| --- | --- | --- |
| PRIMARY | SECONDARY | TERTIARY |
| * Public Education & Tools * Raise awareness * Community development * Outreach support * Address root causes * Multicultural approaches * Whole community approach * Bystander approaches to changing social norms | * Professional Education * Referral systems * Agency & Community Policies and Protocols * Early intervention * Strong community support * Interdisciplinary approaches * Interagency approaches * Community Response Networks | * Justice system interventions * Legal specialists * Community treatments * Safe houses * Professional research * Advocacy Systems |

1. Review the table above then identify whether the following prevention strategies are primary, secondary, or tertiary.
2. Physician’s Suspicion Index
3. Healing Circles
4. Senior Abuse Hotlines
5. Community Action Committee on Elder Abuse
6. World Elder Abuse Awareness Day
7. Canadian Centre for Elder Law Studies
8. Community Response Networks

B. Do you think primary prevention is as important as secondary or tertiary prevention? Why?

C. Find an example of an elder abuse or neglect resource in your community that shows:

1. Primary Prevention
2. Secondary Prevention
3. Tertiary Prevention

### Reflection

1. How can prevention strategies reduce elder abuse, neglect, and self-neglect?
2. Who should be involved in a Community Response Network? Why?
3. Why are community based programs usually the most effective in preventing elder abuse and neglect?

### Secondary Resources

Canadian Network for the Prevention of Elder Abuse (CNPEA). (2007). *Promising approaches in the prevention of abuse and neglect of older adults in community settings in Canada*. Ottawa: Public Health Agency of Canada. <http://www.cnpea.ca/Promising%20Approaches%20Final%20%202007.pdf>

Henderson, E. (2011). *Responding to Elder Abuse in Culturally and Linguistically Diverse Communities: a resource for seniors, Section 1: Elder Abuse through a cultural lens.* Guelph, ON:Project Wisdom: Intercultural Awareness of Elder Abuse. Retrieved July 6, 2014 from [http://www.is-gw.ca/storage/project-wisdom/Tool%20Kit%20-%20S1 %20Elder%20Abuse%20Through%20a%20Cultural%20Lens.pdf](http://www.is-gw.ca/storage/project-wisdom/Tool%20Kit%20-%20S1%20%20Elder%20Abuse%20Through%20a%20Cultural%20Lens.pdf)

NWT Seniors’ Society. (2010). *Making Connections Building Networks to Prevent Abuse of Older Adults Symposium Report,* November 30 – December 1, 2010 Yellowknife, NWT. Retrieved July 6, 2014 from <http://seniors.lamp.yk.com/wp-content/uploads/2013/11/Making-Connections-Building-Networks-to-Prevent-Abuse-of-Older-Adults-Symposium-Report.pdf>

Prevention of Elder Abuse Working Group. (2008). *Prevention of Elder Abuse Policy and Program Lens (PEAPPL).* Ottawa: Elder Health Coalition. <http://www.seniors.gov.on.ca/en/elderabuse/docs/ElderAbuse_Engl_web.pdf>

Struthers, A., Martin, G. & Leaney, A. (2009). *Promising Approaches for Addressing/Preventing Abuse of Older Adults in First Nations Communities - A Critical Analysis and Environmental Scan Of Tools and Approaches.* Surrey, BC: BC Association of Community Response Networks Retrieved July 6, 2014 from <http://www.bccrns.ca/WebLibrary/General/Resources/First%20Nations/Public20130425160252.pdf>

## Resources for Prevention

Alison Leaney, Provincial Coordinator of Vulnerable Adults Community Response, Public Guardian and Trustee of BC

*Note from the author: These materials are the product of extensive collaboration and discussion with my colleagues in the field of elder abuse response and prevention, who have generously shared their knowledge and experience over many years.*

There are many ways to consider resources for prevention. Some of the resources available are individual resources: ways in which we all as individuals can work towards a society that values all people. Some are specific initiatives within the community, the province/territory, the country and beyond that are specifically aimed at preventing abuse and neglect of older adults. Still others are specific initiatives and projects.

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### Learn More About Community Initiatives

To learn more about the Community Response Network model and underlying philosophy:

* Review Part 1 of the CRN Tool Kit - Building Relationships! Building Teams! Building Community! <http://www.bccrns.ca/generated/resourcestoolkit.php>
  + Review the National Initiative for the Care of the Elderly Elder Abuse Tool – Coordinated Community Response to Abuse of Seniors (CCR) (based on the BC Model <http://www.nicenet.ca/tools-elder-abuse>
* To learn more about community engagement principles and approaches the following resources are very helpful:
  + **Tamarack Institute for Community Engagement** – this is an online community with many excellent written resources - <http://tamarackcommunity.ca> including
    - Definitions of Community Engagement - <http://tamarackcommunity.ca/g3s118.html#1>
    - Levels of Engagement – Individual Level - <http://tamarackcommunity.ca/g3s1.html>
    - Levels of Community Engagement – Community Level <http://tamarackcommunity.ca/g3s134.html>
* **Communities that Can** – this resource offers some of the most leading edge thinking about what it means to create social change (this approach is being developed by the woman (Tam Lundy) who developed BC’s Community Response Network Model as a contractor for the Public Guardian and Trustee of BC <http://communitiesthatcan.org>

### 

### Learn More About Keeping Yourself Safe

We are all responsible for our own lives and we are not responsible for another person's abusive functioning. There are some things we can do to maximize our opportunity for wellbeing:

* Adopt a wellness approach to life
* Stay connected
* Learn how legal and financial systems work
* Develop a basic understanding of abuse/neglect

### Adopt a Wellness Approach to Life

* Decide you are worth it
* Deal with difficult relationships to the greatest extent possible throughout life
* Pay attention when personal boundaries feel violated
* Address *isms* in own lives - become aware of them and how they impact ourselves -e.g. internalized ageism

### Stay Connected

* To people you care about and who care about you
* To your neighbourhood: get to know your neighbours
* To your community: develop and maintain personal interests in the community
* To safety in the community: get involved in neighbourhood watch or block watch programs

### Increase Your Own Understanding of Financial and Legal Matters That Affect You

* Proactively learn how financial products and services work - know your rights within them, ask all the key questions
* Agree only to things you understand and want to do
* Decide if you want to plan ahead and understand the pros and cons , i.e. by making an enduring power of attorney, get a joint bank account, add someone to the title of your property
* Seek legal, financial advice and emotional counselling/support

### Develop a Basic Understanding of Abuse/Neglect

* Learn what can put any of us at risk - warning signs and risk factors - mental health issues, isolation, alcohol/drug use, living with someone else, financial dependency
* Recognize that given a certain set of circumstances anyone can be vulnerable to abuse and to being abusive
* Even people who think they aren't, can function in an abusive manner

### Actions Individuals Can Take

* Get involved in neighbourhood watch or block watch programs
* Visit or volunteer at a care facility
* Get involved in intergenerational opportunities – the I2IIntergenrational Society has a number of great resources for linking children and youth with older adults - <http://www.intergenerational.ca/>
* Get involved in promoting recognition of abuse/neglect of older adults on key days - e.g. World Elder Abuse Awareness Day
* Join your local Community Response Network – to find out if there is a network in your community, visit, [www.bccrns.ca](http://www.bccrns.ca)
* Be a Savvy Senior – Fraud Prevention educational video resource - <http://www.bcli.org/project/be-savvy>
* Your Money Seniors – a New Financial Literacy Program for Canadian Seniors -<http://www.cba.ca/en/consumer-information/79-banks-and-financial-literacy/692-your-money-seniors>
* Financial Literacy 101 Course through BCCEAS for older adults and Financial Literacy 102 for responders – focuses on powers of attorney, joint accounts
* What Every Older Canadian Should Know About: Powers of Attorney and Joint Bank Accounts - <http://www.seniors.gc.ca/eng/working/fptf/attorney.shtml>

### Actions We Can Take at the Societal Level

There are many initiatives aimed at preventing abuse and neglect at the provincial/territorial, national and international levels. Learn more about them through these links:

* Provincial/Territorial Levels – in BC we have the new Together to Reduce Elder Abuse Strategy - <http://www2.gov.bc.ca/gov/DownloadAsset?assetId=A272C645C0BE4BC69FD41DC0EB0CCC2F>
* National Level – the Canadian Network for the Prevention of Elder Abuse (CNPEA) – is developing a national hub of “who’s doing what” in the senior abuse prevention field - <http://www.cnpea.ca>
* International Level – the International Network for the Prevention of Elder Abuse holds an annual conference, has a relationship with the United Nations, advocated for the proclamation of World Elder Abuse Awareness Day, and is taking on seniors rights issues at a global level - <http://www.inpea.net/>

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### Be Proactive

* Promote the notion that we are all inter-connected - no us and them
* Be willing to break the silence that surrounds this issue
* Be willing to challenge ageist social policies at all levels - community, regional, provincial/territorial, national
* Ask politicians to take a stand on the issue - politicians at all levels

### Learn More About the Broader Thinking About Violence Prevention, Putting Abuse of Older Adults in a Broader Context

Public Health Approach to Violence Prevention - <http://www.who.int/violenceprevention/approach/public_health/en/>

World Health Organization Violence Prevention Initiatives - <http://www.who.int/violence_injury_prevention/violence/world_report/en/>

### Resources for Response in the Workplace

* We are all citizens and have a responsibility in that regard as noted in detail above and getting community engaged can happen as a private citizen or in our role where we work
* The level of knowledge you need is dependent on your role at work:
* A basic tenet is to talk to the adult first, and follow principles of the *Adult Guardianship Act*
* Some of us have a responsibility to recognize and follow internal policies about appropriate actions to take
* Some of us belong to regulatory associations that require us to abide by codes of ethics
* Some provide a support and referral role in our work which involves knowing community resources - including knowing when to refer to a more formal agency such as a Designated Agency, PGT or police
  + Some have a legal mandate and responsibility to investigate
* Understand basic principles:
  + Recognize we all have potential to be abusive
  + The older adult and the person causing the harm both need help
  + Abuse happens in a context – a situation where abuse occurs is not about “bad people”
  + Providing support to the person causing the harm will often support the older adult
  + Older adult often wants to maintain the relationship because it is often with someone close to them - they just want the abuse to stop
  + Help specific to abuse seems to focus on helping abuser get own needs met so they aren't looking to older adult for that
* Be aware of the following help lines where older adults and those concerned about them can get information about specific services in their communities -
  + BC Centre for Elder Advocacy and Support – have both victim service and legal assistance programs as well as a Senior Abuse Information Line (SAIL) - http://bcceas.ca/programs/sail/
  + Numbers to Call by Community through the BC Association of Community Response Networks - <http://www.bccrns.ca/generated/crnhealthauthoritymap.php>
  + ViictimLINK – 24/7 help in multiple languages - <http://www.victimlinkbc.ca/>
  + 211 – information/referral anywhere in the Lower Mainland - http://www.bc211.ca/

## Response Resources for Professional Practice

Alison Leaney, Provincial Coordinator of Vulnerable Adults Community Response, Public Guardian and Trustee

*Note from the author: These materials are the product of extensive collaboration and discussion with my colleagues in the field of elder abuse response and prevention, who have generously shared their knowledge and experience over many years.*

Professionals in practice, like all citizens, have a responsibility to work towards prevention of the abuse and neglect of the vulnerable, including vulnerable older adults. In some cases, individuals in specific practices have specific responsibilities for responding to situations of abuse and neglect.

The resources documented here are not intended to take the place of specific training for formal roles. Rather, they are intended to increase awareness and knowledge of abuse and neglect for all professionals. The resources are listed under specific professional roles, but others may find them useful as well.

### Response Resources for Health care professionals

A variety of resources exist for health care professionals in various fields.

* Physicians:
  + Elder Abuse Suspicion Index (EASI) – National Initiative for the Care of the Elderly, Elder Abuse Tools, <http://www.nicenet.ca/tools-elder-abuse>
  + Fact Sheet for Doctors - Responding to Elder Abuse and Neglect: Challenges for Health Care and Social Service Workers produced by the CCEL/BCLI - <http://www.bcli.org/project/counterpoint-project>
* Nurses
  + Response tools in community settings - a suite of tools nurses can consider are BASE, CASE, IOA - National Initiative for the Care of the Elderly, Elder Abuse Tools, <http://www.nicenet.ca/tools-elder-abuse>
  + Fact Sheet for Nurses - Responding to Elder Abuse and Neglect: Challenges for Health Care and Social Service Workers produced by the CCEL/BCLI - <http://www.bcli.org/project/counterpoint-project>
  + Facility settings – the PEACE Project is a collaborative project between the Registered Nurses of Ontario and the Canadian Nurses Association - <http://rnao.ca/bpg/initiatives/promoting-awareness-elder-abuse-longterm-care>
* Canadian Dental Hygienists Association has their own online course, “Elder Abuse and Neglect for Dental Hygienists” <http://www.cdha.ca/cdha/Education/Online_Courses/Elder_Abuse/CDHA/Education/Courses/Elder_Abuse.aspx?hkey=840b6b49-fa7a-4a58-b750-66a5b7c4e15e>
* A variety of health care providers may work for a regional health authority in BC, or Providence Health Care and these agencies are designated agencies under Part 3 of the *Adult Guardianship Act*. Depending on which health authority one works for, some staff may be responsible for referring to others, while some are charged with the actual investigation. Most health authorities use the VCH ReAct Adult Protection Program Manual adapted for their own region which outlines how to respond to situations - <http://www.vchreact.ca/manual.htm>. There is also a First Nations ReAct manual that has been made available nationally based on work here in BC - <http://www.vchreact.ca/national_manual.htm>

### Response Resources for Law Enforcement/Police

* General duty or police in specific elder abuse or domestic violence units are the key police responders
  + Become familiar with the abuse/neglect provisions of the Criminal Code
  + Become familiar with the Violence in Relationships/Violence Against Women in Relationships provincial Policy – the tenets for addressing violence in couple relationships apply in couples who are older, and many of the tenets are relevant to senior abuse circumstances by someone other than a spouse <http://www.pssg.gov.bc.ca/victimservices/shareddocs/pubs/vawir.pdf>
  + RCMP Domestic Violence Training in BC includes some reference to abuse of seniors
  + BC Centre for Elder Advocacy and Support has produced a Victim Service E-Book available to all victim service programs, including police based programs in BC - which has basic info about abuse of older adults, some video clips - <http://bcceas.ca/e-book-understanding-and-responding-to-elder-abuse/>
  + In BC there is an RCMP Crime Prevention Unit with a very particular priority in Senior Abuse Prevention
  + Tools – Elder Abuse Assessment and Intervention Reference Guide and Theft by Person Holding Power of Attorney: Officers Investigation Guide - National Initiative for the Care of the Elderly, Elder Abuse Tools, <http://www.nicenet.ca/tools-elder-abuse>

### Response Resources for Lawyers and Notaries

* Professional continuing education – Elder Law subsection of the BC Bar Association, Community Legal Education in BC
* Profession specific journals and magazines periodically have relevant articles – e.g. Scrivener Magazine (Notaries of BC)
* Canadian Centre for Elder Law/BC Law Institute – has produced a number of excellent resources of possible interest to lawyers:
  + Recommended Practices Guide for Lawyers and Notaries Concerning Undue Influence Relating to Wills - <http://www.bcli.org/bcli-releases-recommended-practices-guide-lawyers-and-notaries-concerning-undue-influence-relat>
  + Financial Abuse of Seniors – An Overview of Key Legal Issues and Concepts - <http://www.bcli.org/publication/backgrounder-paper-financial-abuse-seniors-overview-key-legal-issues-and-concepts>
  + “Tips for Good Practice for Legal Professionals” tool in the Provincial Strategy Document – Vulnerable Adults and Capability Issues in BC <http://www.bcli.org/sites/default/files/Tips_for_Good_Practice_for_Legal_Professionals.pdf>

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### Response Resources for Social Workers

Social workers working in regional health authorities in BC are often very involved as consultants or front line responders in fulfilling the designated agency mandate. Social workers working everywhere also are responsible for knowing about community resources to be able to make meaningful referrals to other agencies who can assist adults who are experiencing abuse, as well as those who may be functioning in an abuse manner – programs include shelters, seniors centres, victim service programs, local counselling, government financial programs, etc., plus those noted below

As a social worker, you are likely to have good knowledge of the resources in your own community. In addition, here are some provincial resources. (Some will lead to more local resources.)

* BC Centre for Elder Advocacy and Support – have both victim service and legal assistance programs as well as a Senior Abuse Information Line (SAIL) - http://bcceas.ca/programs/sail/
* Numbers to Call by Community through the BC Association of Community Response Networks - <http://www.bccrns.ca/generated/crnhealthauthoritymap.php>
* VictimLINK – 24/7 help in multiple languages - <http://www.victimlinkbc.ca/>
* 211 – information/referral anywhere in the Lower Mainland - <http://www.bc211.ca/>
* Gambling - <http://www.bcresponsiblegambling.ca/>
* Addictions - <http://www.bc211.ca/adirs2.html>
* Mental Health - <http://www.bc211.ca/adirs2.html>
* WRAP Program – a self-management approach to a variety of issues that may be relevant depending on the circumstances – currently available in Vancouver Coastal Health - <http://www.heretohelp.bc.ca/visions/recovery-vol9/wrap-gave-me-freedom-from-depressions-control>
* Elder Mediation in some cases may be appropriate – great care in making referrals is needed due to power imbalance and the fact that this is a largely unregulated field
* Individual counselling may be appropriate
* Tools for thinking through responding from a social work perspective –
  + In Hand (ethical decision making framework) and the Being Least Intrusive (for use in First Nations contexts) - National Initiative for the Care of the Elderly, Elder Abuse Tools, <http://www.nicenet.ca/tools-elder-abuse>
  + Counterpoint Project Tools from - Responding to Elder Abuse and Neglect: Challenges for Health Care and Social Service Workers produced by the CCEL/BCLI **-** <http://www.bcli.org/project/counterpoint-project>

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### Response Resources for the Financial Industry – Banks, Credit Unions

* Look internally for an abuse response unit (may be within the institution’s fraud investigation or operational division), internal response protocols, internal educational resources, educational resources from the Canadian Bankers Association, training from your credit union’s training provider
* Be aware of internal and external community-based resources available for use or initiatives underway in your community:
  + Be a Savvy Senior – Fraud Prevention educational video resource - <http://www.bcli.org/project/be-savvy>
  + Your Money Seniors – a New Financial Literacy Program for Canadian Seniors -<http://www.cba.ca/en/consumer-information/79-banks-and-financial-literacy/692-your-money-seniors>
  + Financial Literacy 101 Course through BCCEAS for older adults and Financial Literacy 102 for responders – focuses on powers of attorney, joint accounts
  + What Every Older Canadian Should Know About: Powers of Attorney and Joint Bank Accounts - <http://www.seniors.gc.ca/eng/working/fptf/attorney.shtml>
* New National Financial Literacy Leader – Financial Consumer Agency of Canada – at the time of writing (fall 2014), public consultations and the identification of resources for older adults, including the issue of abuse prevention was occurring - <http://www.fcac-acfc.gc.ca/Eng/financialLiteracy/financialLiteracyCanada/Pages/home-accueil.aspx>

## What Laws Apply to Elder Abuse and Neglect?

*Krista James, National Director, Canadian Centre for Elder Law*

This Reading briefly outlines key laws that apply to elder abuse and neglect, and explains the significance of the laws in the context of practice. The legislation discussed in this section is provincial, and only applies to BC.

### Laws Directly Applying to Elder Abuse and Neglect

The main law addressing elder abuse and neglect in British Columbia is the *Adult Guardianship Act*. This law strives to represent a balance between protecting the sometimes competing rights to (a) self-determination and (b) protection.

(a) Who does the law apply to?

The law creates a framework for responding to abuse of adults who are unable to protect themselves. The language of the *Act* makes it very clear that the *Act* does not apply to all instances of elder abuse.

|  |  |
| --- | --- |
| ***Adult Guardianship Act*, R.S.B.C. 1996, c. 6** | |
| **Purpose** | **Section 44:**  To provide support and assistance for adults who are abused or neglected, and who are unable to seek support or assistance, due to:   1. physical restraint; 2. a physical handicap that limits their ability to seek help; or 3. an illness, disease, injury or other condition that affects their ability to make decisions about the abuse or neglect. |
| **Application** | **Section 45:**  The *Act* applies whether an adult is abused or neglected in a public place, in the adult's home, a relative's home, a care facility, or any other place except a correctional centre. |

(b) How can you respond to abuse and neglect?

The *Act* describes what steps may be taken by people who want to report abuse or neglect in British Columbia. There is no duty or obligation to report elder abuse. The *Act* allows people to notify a Designated Agency when an older adult is being abused or neglected and is unable to seek support and assistance.[[18]](#footnote-18) The Designated Agencies are:

* Fraser Health Authority
* Interior Health Authority
* Northern Health Authority
* Vancouver Coastal Health Authority
* Vancouver Island Health Authority
* Community Living British Columbia (for adults in BC eligible to receive community support under the *Community Living Authority Act*)
* Providence Health Care Society (for adults who are patients or persons in care at hospitals or facilities owned and operated by Providence Health Care Society)[[19]](#footnote-19)

You can also report financial abuse directly to the Public Guardian and Trustee. See the section below on the *Public Guardian and Trustee Act.*

(c) What happens when you report abuse?

The designated agency will investigate whether the adult needs support or assistance. The designated agency may:

* refer the adult to available health care, social, legal, accommodation or other services;
* assist the adult in obtaining those services;
* inform the Public Guardian and Trustee; and
* investigate to determine if the adult is abused or neglected and is unable to seek support and assistance for the reasons set out in s. 44 of the *Act*.[[20]](#footnote-20)

At law the designated agency is required to make every reasonable effort to interview the adult and may also interview the adult’s spouse, close relatives or anyone that may assist with the investigation.[[21]](#footnote-21) The *Act* provides for additional powers to investigate, which include getting a court order authorizing:

* the designated agency to enter the adult’s home or other premises;
* the designated agency to enter the premises and interview the adult; and
* a health care provider to enter the premises to examine the adult to determine whether health care should be provided.[[22]](#footnote-22)

A designated agency must report to the police if it has reason to believe a criminal offence has been committed against an adult.[[23]](#footnote-23)

After conducting an investigation, a designated agency can do any of the following:

* take no further action;
* refer the adult to available services;
* report the case to the Public Guardian and Trustee or another agency;
* apply to the court for an temporary order, including requiring a person to:
  + to stop residing at and stay away from the premises where the adult lives;
  + not to visit, communicate with, harass or interfere with the adult; or
  + not to have any contact or association with the adult or the adult's financial affairs;
* apply to the court for an order under Part 7 of the [*Family Law Act*](http://www.bclaws.ca/civix/document/id/complete/statreg/11025_01) for the support of the adult;
* prepare a support and assistance plan that specifies any services needed by the adult, including health care, accommodation, social, legal or financial services.[[24]](#footnote-24)

(d) Emergency assistance

Under section 59 of the *Adult Guardianship Act* the Designated Agency also has emergency powers to intervene, without the adult’s agreement, when a vulnerable adult is:

* + Incapable; and
  + Unable to consent for reasons of physical or mental disability.

These powers may only be exercised where it is necessary to:

* preserve the adult’s life;
* protect the adult against serious physical or mental harm; or
* protect the adult’s property from significant damage or loss.

The Designated Agency may also enter property without a court order and remove the adult in order to provide emergency health care.

(e) What Provisions are embedded into the law to protect you?

The *Adult Guardianship Act* protects those who would use the provisions of the *Act* in order to make an honest report about abuse or neglect against their employer. This is a very significant inclusion that ensures the job security of social workers, care providers, nurses, and all people who work closely with seniors and who are in a position to see or suspect abuse or neglect. According to the *Act*, an employer cannot fire an employee, threaten, discriminate against, coerce, discipline, or impose a penalty against them for making an honest report or assisting with an investigation of elder abuse and neglect.[[25]](#footnote-25)

In addition, a person who makes an honest report is prevented from having a claim for damages made against them, and their identity is protected from disclosure.[[26]](#footnote-26)

### Other Relevant Legislation

There are many other laws that may be relevant to a particular person’s experience of elder abuse and neglect. This section will examine some of these laws as they apply across a range of areas.

### *Public Guardian and Trustee Act*

(a) When can the Public Guardian and Trustee (PGT) intervene to respond to abuse?

In British Columbia, the Public Guardian and Trustee (PGT) also has the power to investigate abuse and neglect in certain situations. Section 17 of the *Act* grants the PGT the power to investigate and audit the affairs, dealings, and accounts of an:

* An adult’s substitute decision maker (i.e. a committee, an attorney acting under a power or attorney or an enduring power of attorney when there is reason to believe the adult is incapable of managing his or her financial affairs, or a representative under a representation agreement);
* An adult who does not have a substitute decision maker, but who is apparently abused or neglected as defined in the *Adult Guardianship Act*, or
* A trust where the beneficiary is or may be an adult with a committee or where the adult does not have a committee and is apparently abused or neglected, as defined in the *Adult Guardianship Act.*

if the PGT has reason to believe that:

* The trust or assets of the adult may be at risk; or
* The attorney, representative, or guardian has failed to comply with his or her duties.

Where the adult’s personal care or health care is concerned, the PGT can investigate the personal care and health care decisions made by a representative or committee, if the PGT has reason to believe the representative or committee has failed to comply with his or her duties.[[27]](#footnote-27)

**(b) What happens when you report abuse?**

The PGT has broad powers to address situations where there are concerns about abuse or neglect. These include:

* Liaising with Designated Agencies, community services, or police, as appropriate;
* Looking for an appropriate substitute decision-maker, and if none, obtaining authority as committee of the estate 29;
* Exercising its authority to protect assets under s. 19 of the *Act*. Steps taken may include:
  + Instructing a financial institution not to permit withdrawals or payments for a period that cannot exceed 120 days;
  + Halting the sale of assets and property;
  + Re-directing income for the adult's health or safety;
  + Taking any other steps necessary to protect the financial affairs of the adult. [[28]](#footnote-28)

### Additional Reading

Public Guardian and Trustee of British Columbia, “Helping an Adult Get Support and Reporting Abuse or Neglect” (2014), online at: < [**http://www.**](http://www.trustee/)

[**trustee**](http://www.trustee/)[**.bc.ca**](http://www.trustee.bc.ca/)[**/services/services-to-adults/Pages/abuse-neglect.aspx**](http://www.trustee.bc.ca/services/services-to-adults/Pages/abuse-neglect.aspx) >

### *Community Care and Assisted Living Act*

The *Community Care and Assisted Living Act* serves to provide the standards by which community care and assisted living facilities offer care. The *Act* requires licensees of Community Care facilities to report abuse, which means that staff are expected to report emotional, financial, physical and sexual abuse as well as neglect.

Facilities are required to promote and ensure the health, safety, dignity, and rights of the adults in their care, which includes the right to be protected from abuse and neglect.[[29]](#footnote-29)

Section 22 of the *Act* shares a similar section to the *Adult Guardianship Act* by providing protection from retaliation against anyone who reports abuse under the *Act.* This includes not only employees of the organization, but the seniors themselves who live in the assisted living facility themselves.

### *Representation Agreement Act*

(a) What is a representative agreement?

A “representation agreement” is a legal tool used for personal or “advanced planning”. It allows someone, authorized by the person who filled out and signed the form, to be appointed as a representative of that person when it comes to making health care, personal care or routine financial decisions. A representative may be authorized to:

* help the adult to make decisions or make decisions on behalf of the adult relating to health care, personal care, or routine financial decisions;
* access personal information in order to help make decisions;
* admit an adult to a residential care facility if the facility is a family care home, a group home for the mentally handicapped, or a mental health boarding home; and
* obtain legal services for the adult and instruct lawyers to act on behalf of the adult (except for commencing divorce proceedings).

Representation agreements are quite powerful. They are the only way for someone to appoint another to make health care decisions on their behalf. However, a person can make their wishes regarding future health care known by way of an Advance Directive – see below for further details. [*Under the Health Care (Consent) and Care Facility (Admission) Act*, a Temporary Substitute Decision Maker can also be appointed to make health care decisions should a health care provider determine the adult is incapable of consenting or refusing health care and where no representation agreement has been made or there is no committee of person].

(b) Section 7 versus section 9 agreements

The law makes a distinction between standard Section 7 representation agreements and Section 9 representation agreements, which cover different kinds of decisions and are subject to different standards. Roughly the distinction is that Section 7 agreements deal with personal and health care decisions, as well as routine financial and legal matters. A person may have some degree of diminished capacity and still be capable of making a Section 7 representation agreement.[[30]](#footnote-30) Section 9 agreements do not include financial matters but deal with routine and more serious or invasive personal and health care matters, such as where the person lives, the use of physical restraints and end of life decisions. A higher level of capacity is required to make a Section 9 agreement, in that the person must understand the nature and consequences of the proposed agreement.[[31]](#footnote-31)

(c) Monitors

For an additional layer of protection, a monitor must also be appointed if the representation agreement includes the authority to handle finances (unless the representative is a spouse, a trust company, a credit union, or the PGT, or unless two co-representatives are appointed).[[32]](#footnote-32) A monitor is tasked with ensuring that the representative is fulfilling their duties.

(d) Responsibilities of a representative

A representation agreement can be used to support an older person’s wishes but can also be misused as part of a dynamic of elder abuse. To combat elder abuse and neglect, section 16 of the *Act* makes the following requirements for those being appointed as representatives:

* to act honestly and in good faith;
* to exercise the care, diligence and skill of a reasonably prudent person;
* to act within the authority of the representation agreement;
* when helping the adult make decisions, or when making decisions for them, the representative must either:
* consult with the adult, to the extent that it is reasonable, in order to understand their wishes; or
* if they cannot consult with the adult, they must make decisions in the adult's best interest on the basis of the adult's known beliefs and values;
* keep accounts and other records relating to the exercise of their authority, and produce those accounts for inspection when asked by the adult, the monitor of the representation agreement, or the PGT.

If at any point, anything improper has occurred during the creation or use of the representation agreement, a complaint may be made to the PGT. The PGT may investigate the issues and has a broad range of powers to remedy the situation, including applying to the court to revoke or change the agreement and appointing a monitor.[[33]](#footnote-33)

### Additional Reading

Nidus Personal Planning Resource Centre and Registry factsheet on Representation Agreements, online at < [**http://www.nidus.ca/PDFs/**](http://www.nidus.ca/PDFs/Nidus)

[**Nidus**](http://www.nidus.ca/PDFs/Nidus)[**\_FactSheet\_RA**](http://www.nidus.ca/PDFs/Nidus_FactSheet_RA)[**\_Overview.pdf**](http://www.nidus.ca/PDFs/Nidus_FactSheet_RA_Overview.pdf) >

### *Power of Attorney Act*

**(a) What is a Power of Attorney?**

Powers of attorney deal exclusively with financial and legal decisions. A power of attorney is a document that appoints someone (an “attorney” - who does *not* have to be a lawyer and can be anyone the adult chooses) to make financial and legal decisions on their behalf. The document will set out what powers an attorney has. An attorney can, for example:

* use the adult's money to pay bills
* collect pension income or benefits on behalf of the adult
* buy and sell property (if the document is properly drafted and executed)

There are different types of power of attorney which differ from each other based on how and when they come into force.

|  |  |  |
| --- | --- | --- |
| **Power of Attorney** | **Enduring Power of Attorney** | **Springing Power of Attorney** |
| Comes into force when the document is made, but is cancelled when the adult loses capacity. | Comes into force when the adult loses capacity, and remains active despite the adult's incapacity. | Comes into force at a pre-determined time or event. |

(b) Responsibilities of an Attorney

The *Power of Attorney Act* contains similar language to that of the *Representation Agreement Act*. For example, under section 19, as with representation agreements, the attorney must:

* act honestly and in good faith;
* exercise the care, diligence, and skill of a reasonably prudent person;
* act within the authority of the power of attorney;
* keep records for inspection at the request of the adult;
* act in the adult's best interest, taking into account the adult's beliefs, values, and any directions given.[[34]](#footnote-34)

A person may authorize an attorney to make decisions on behalf of the adult, or do anything that the adult may lawfully do by an agent with respect to the adult’s financial affairs.[[35]](#footnote-35)

A key difference with the *Representation Agreement Act* in respect of financial matters is that, given the nature of the document, the *Power of Attorney Act* also sets out specific duties about how the attorney must manage the adult’s money. The *Act* requires the attorney to:

* give priority to meeting the personal and health care needs of the adult in terms of directing funds;
* invest any money properly;
* not dispose of property that the attorney knows is in the adult's will
* to keep the adult's money separate from their own;
* foster the independence of the adult and encourage the adult's involvement in any decision-making.[[36]](#footnote-36)

These requirements specifically serve to prevent the use of powers of attorney as a means of elder financial abuse. In addition, the *Act* provides that any person can report impropriety with respect to a power of attorney or failure of an attorney to comply with their duties to the PGT.[[37]](#footnote-37)

### Additional Reading

Canadian Centre for Elder Law tools on Power of Attorney Elder Abuse Awareness, online at: < [**http://www.bcli.org/wordpress/wp-content/**](http://www.bcli.org/wordpress/wp-content/uploads/2014/03/)

[**uploads/2014/03/**](http://www.bcli.org/wordpress/wp-content/uploads/2014/03/)[**English-Fact-Sheet.pdf**](http://www.bcli.org/wordpress/wp-content/uploads/2014/03/English-Fact-Sheet.pdf) >

### *Health Care (Consent) and Care Facility (Admission) Act*

(a) Scope of the law

The law:

* Sets out the basic elements of the right to consent;
* Underscores the presumption that everyone is mentally capable of giving consent to medical treatment;
* Sets out the procedures health care professionals must follow when they must obtain consent from the adult patients they are treating;
* Provides a descending list of substitute temporary decision-makers that applies to circumstances where an adult cannot consent and there is no substitute decision-maker already appointed by the court or a representation agreement;
* Provides for Advance Directives.

(b) Consent and Abuse

Health care providers may commit a form of elder abuse if they do not follow consent law. It is arguably a form of elder abuse to:

* Fail to get the mentally capable adult’s consent prior to providing medical treatment, or generally disregard their wishes;
* Fail to get consent from the appropriate substitute decision-maker.

(c) Advance Directives

Part 2.1 of the *Act* is responsible for regulating advance directives. An advanced directive is an advanced planning document which an adult signs to give instructions to health care providers on how to provide services to them if they are rendered incapable of giving or refusing consent to treatment. In short, the adult gives consent in advance to receive or refuse whatever treatment is listed in the directive.

If an advance directive is in place and addresses the medical issue at hand, and the health care professional is not aware of a committee of person or representative, the health care professional is entitled to proceed in accordance with the instructions set out in the advance directive. If there is a representative, the health care professional does not need the consent of the representative if the representation agreement specifically states that consent of the representative is not required.

### Additional Reading

Ministry of Health and Ministry Responsible for Seniors, “A Primer to British Columbia's New Health Care Consent Legislation” (2002), online at : < [**http://www**](http://www/)[**.health**](http://www.health/)[**.gov.bc.ca/cpa/publications/hc-primer.pdf**](http://www.health.gov.bc.ca/cpa/publications/hc-primer.pdf) >

### *Patients Property Act*

The Act applies to “patients”, defined under Section 1 as:

1. a person who is described as one who is, because of mental infirmity arising from disease, age, or otherwise, incapable of managing his or her affairs, in a certificate signed by the director of a Provincial mental health facility or psychiatric unit as defined in the *Mental Health Act*, or
2. a person who is declared under this *Act* by a judge to be
   1. incapable of managing his or her affairs
   2. incapable of managing himself or herself, or
   3. incapable of managing himself or herself or his or her affairs.

Patients who meet the definition above may be appointed a “committee”, namely, a court-appointed decision-maker. This law is the legal authority for going to court to get guardianship over someone in BC. According to Section 15 of the *Act*, the committee of estate has all the rights, privileges, and powers with regards to the estate of the patient as the patient would have if of full age and of sound and disposing mind. The committee of person has custody of the person of the patient, which means the committee has authority to make all personal and health care decisions.

To combat elder abuse and neglect, Section 10 of the *Act* imposes many rules on private committees (that is, committees other than the PGT). Private committees must give security (usually in the form of a bond) for the proper performance of their duties, and must keep strict inventories of accounts, debts, credits, and assets, and provide this information to the PGT.

### Additional Reading

Public Guardian and Trustee of British Columbia, Private Committee Services, “Fact Sheet for Private Committees” (2006), online at:

< http://www.trustee.bc.ca/reports-and-publications/Pages/default.aspx >

### *Adult Guardianship Act*, Part 2.1

On December 1, 2014, selected sections of Part 2.1 of the *Act* come into force. [[38]](#footnote-38) These sections govern the process for issuing a certificate of incapability and authorizing the PGT to become a statutory property guardian (SPG). The authority of the SPG is limited to decisions regarding an adult’s financial affairs

SPG’s are not appointed by the court. A qualified health care provider (QHCP) conducts an assessment in accordance with the Statutory Property Guardianship Regulation. If the QHCP determines that the adult is incapable of managing his or her financial affairs, a health authority designated reviews the assessment.

A Health Authority Designate may issue a certificate of incapability in respect of the adult, if satisfied that:

1. the adult needs to make decisions about the adult's financial affairs,
2. the adult is incapable of making those decisions,
3. the adult needs, and will benefit from, the assistance and protection of a statutory property guardian,
4. the needs of the adult would not be sufficiently met by alternative means of assistance, and
5. either
   * 1. the adult has not granted power over all of the adult's financial affairs to an attorney under an enduring power of attorney, or
     2. an attorney has been granted power but is not complying with the attorney's duties under the *Power of Attorney Act* or the enduring power of attorney, as applicable.[[39]](#footnote-39)

If the certificate is issued, the PGT becomes the adult’s statutory property guardian. If an adult has been determined to be incapable of managing the adult's financial affairs, the adult may request a second assessment. Section 34 of the *Act* also provides for reassessments. The adult may apply to the court for a review of determination in a second assessment or a reassessment that the adult is incapable.

### 2.3.7 – *Human Rights Code*

In some instances it is possible elder abuse may be a form of discrimination or harassment. The *Human Rights Code* in British Columbia is the provincial human rights statute that applies to discrimination and harassment. The *Act* prohibits discrimination based on protected grounds. The grounds are variable depending on the type of discrimination, e.g. discrimination in a service versus tenancy.

Elder mistreatment as discrimination can take on many forms, such as:

* A landlord may refuse to rent to an older tenant for fear of legal consequences if the tenant is injured on their property.
* An employer may refuse to hire an otherwise-qualified older adult as they assume the older adult will be inefficient due to their age.
* An assisted living facility may offer programs and activities for residents that exclude disabled older adults, without giving the disabled older adults any alternative programming.
* A strata corporation may fine an older adult for unreasonable wear-and-tear of the strata lot due to the older adult's need to use a wheelchair.
* Employees at work bully and harass an elder worker, making fun of them because of their age.

Complaints about discrimination and harassment are made by the person who experienced the behaviour to the BC Human Rights Tribunal. A complaint triggers the beginning of “quasi-legal” proceedings where the two parties will have a hearing to determine whether or not there was discrimination or harassment, and if so, determine the remedies to rectify the behaviour.

### 2.3.8 – *Immigration and Refugee Protection Act*

The *Immigration and Refugee Protection Regulations*, SOR/2002-227 of the *Immigration and Refugee Protection Act*, SC 2001, c 27, outlines circumstances which protect adults made especially vulnerable by virtue of their status as permanent residents. Certain permanent residents, such as spouses sponsored into Canada, are subject to strict residency requirements under Section 72.1 which require them to cohabit with their sponsor in a conjugal relationship for two years before they can apply for citizenship.

Older adults (parents or grandparents) who come to Canada as sponsored immigrants must sign a sponsorship agreement lasting 20 years, during which they are unable to access publically funded services (s. 132(1)(*b*)(iv) of the regulation). This arrangement creates significant vulnerabilities to abuse because it vastly limits options available to older adult immigrants who are being mistreated.

Recognizing the potential for abuse in this power dynamic, the *Act* carves out specific exemptions to protect against sponsors who would take advantage of their position of authority, and the powerlessness of their sponsored spouse, or the sponsored spouse’s child or relative. However, no exemption exists for older adults prevented from accessing publically funded services under 20 year sponsorship agreements.

Section 72.1(6) of the regulation explains:

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| **Exception – abuse or neglect**  The condition set out in subsection (1) [the residency requirement] ceases to apply in respect of a permanent resident referred to in that subsection if an officer determines, based on evidence provided by the permanent resident or on any other relevant evidence, that:   1. the permanent resident    1. is not able to meet that condition throughout the two-year period referred to in that subsection because the permanent resident, or a child of the permanent resident or the sponsor, or a person who is related to the permanent resident or the sponsor and who is habitually residing in their household, is subjected by the sponsor to any abuse or neglect during that period, and    2. continued to cohabit in a conjugal relationship with the sponsor during that period until the cohabitation ceased as a result of the abuse or neglect; or 2. the permanent resident    1. is not able to meet that condition throughout the two-year period referred to in subsection (1) because the sponsor has failed to protect the permanent resident or a child of the permanent resident or the sponsor, or a person who is related to the permanent resident or the sponsor and who is habitually residing in their household, from any abuse or neglect during that period by another person who is related to the sponsor, whether that person is residing in the household or not, and    2. continued to cohabit in a conjugal relationship with the sponsor during that period until the cohabitation ceased as a result of the abuse or neglect. |

The regulation then defines abuse and neglect at Section 72.1(7) as:

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| **Abuse** consists of any of the following:   1. physical abuse, including assault and forcible confinement 2. sexual abuse, including sexual contact without consent 3. psychological abuse, including threats and intimidation 4. financial abuse, including fraud and extortion |
| **Neglect** consists of the failure to provide the necessities of life, such as food, clothing, medical care or shelter, and any other omission that results in a risk of serious harm. |

If an immigration officer finds that the claims of abuse or neglect were justified, the condition requiring the permanent resident to reside with their sponsor can be lifted, protecting the vulnerable person from further abuse or neglect from their sponsor.

### 2.3.9 – Family Homes on Reserves and Matrimonial Interests or *Rights Act*

The newly enacted *Family Homes on Reserves and Matrimonial Interests or Rights Act*, SC 2013, c 20, provides protection for vulnerable Aboriginal persons from abuse within their marriage, via issuing emergency protection orders—orders which evict or exclude an abusive spouse or partner from the family home on a reserve.

Section 16 of the *Act* allows for an emergency protection order to be granted where one spouse is in an immediate risk of danger in a household with a history of family violence. At Section 16(9), family violence is defined as:

* an intentional application of force without lawful authority or consent, excluding any acts committed in self-defence;
* an intentional or reckless act or omission that causes harm or damage to property;
* an intentional, reckless, or threatened act or omission that causes a reasonable fear of bodily harm or damage to property;
* sexual assault, sexual abuse, or the threat of either;
* forcible confinement without lawful authority; or
* criminal harassment.

This statute would apply to spousal relationships where the couple live on federal reserve land.

## The *Adult Guardianship Act*—Guiding Principles

*Krista James, National Director, Canadian Centre for Elder Law*

**LEARNING**

**GOALS**

By the end of this reading, you will be familiar with:

**1.** The guiding principles in the *Adult Guardianship Act*

\*

**2.** The history and rationale of the guiding principles

\*

**3.** The role of the guiding principles

The *Adult Guardianship Act* sets out the guidelines principles for how the *Act* is to be administered and interpreted. They form the ideology underlying the legislation. They can be a useful tool for identifying elder abuse and neglect, and determining and evaluating options for response if you are concerned about an older adult.

These principles were developed as a result of a consultation report published one year before the *Act* was finalized, in 1992. The report, *How Can We Help? A New Look at Self-Determination, Interdependence, Substitute Decision-Making, and Guardianship in B.C*,[[40]](#footnote-40) was a joint undertaking of the government and community stakeholders, which highlighted key issues that guardianship legislation ought to address. The guiding principles of guardianship legislation is one of the issues the document explored.

### Guiding Principles in the *Adult Guardianship Act*

Sections 2 the *Adult Guardianship Act* lists the guiding principles of the *Act*:

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| 1. This *Act* is to be administered and interpreted in accordance with the following principles:    1. all adults are entitled to live in the manner they wish and to accept or refuse support, assistance, or protection as long as they do not harm others and they are capable of making decisions about those matters;    2. all adults should receive the most effective, but the least restrictive and intrusive, form of support, assistance, or protection when they are unable to care for themselves or their financial affairs;    3. the court should not be asked to appoint, and should not appoint, guardians unless alternatives, such as the provision of support and assistance, have been tried or carefully considered. |

Section 3 of the *Act*, the presumption of capacity, is also a kind of guiding principle:

s. 3 (1) Until the contrary is demonstrated, every adult is presumed to be capable of making decisions about the adult's personal care, health care, and financial affairs.

(2) An adult's way of communicating with others is not grounds for deciding that he or she is incapable of making decisions about anything referred to in subsection (1).

### Advanced Learning Option: Understanding the History of the Guiding Principle

### Purpose and Intent

In the *How Can We Help?* report, the Joint Working Committee on Dependent Adults was tasked with reforming the then-current legislation, procedures, and systems affecting the support, assistance, and protection of British Columbians who had difficulties, or were unable, to take care of themselves, their property, or their financial affairs. The report was targeted towards helping three main groups of people:[[41]](#footnote-41)

1. Adults with mental disabilities, mental illnesses, severe physical disabilities, or head injuries;
2. Adults who have suffered a stroke, or who currently suffer from degenerative conditions such as ALS, Huntington's, or AIDS; and
3. All persons who may, in the future, experience diminished capacity.

### Driving Forces

The report was commissioned to address several legal and social policy concerns:[[42]](#footnote-42)

* *Respecting autonomy of older people*: There was a growing concern that the then-existing legislation and systems in place to deal with an aging population were not only inadequate in terms of offering assistance and protection to vulnerable adults, but potentially discriminatory by failing to preserve their autonomy.
* *Practice standards in community care*: The population of British Columbia saw a reduced use of institutions and hospitals for long-term housing and care of vulnerable adults, instead turning towards community-based care. On one hand, these alternative care providers were able to closely assist vulnerable adults and provide them with care in a unique and compassionate way. However, these providers were not necessarily bound by the then-existing legislation, nor required to meet specific practice standards.
* *Lack of legal protection for vulnerable adults*: There was a growing concern about the abuse, neglect, and self-neglect of vulnerable adults, and a lack of a law offering definite protection.
* *Concern with equality rights of people with disabilities*: The advent of the Charter of Rights and Freedoms endowed Canadians with equality rights, and emphasized the right to autonomy. The then-existing laws, which granted guardianship or substitute decision-making authority to others, could potentially infringe on that right to autonomy.
* *Integrating a rights-based approach*: There was criticism of the existing laws regarding their inability to represent the interests and rights of those with medical disabilities or mental illnesses, either due to pre-existing gaps in the law, or deliberate decisions which no longer reflected society's views towards vulnerable adults.

### Recommendations

The Joint Committee recommended five guiding principles[[43]](#footnote-43) which would address the concerns of vulnerable adults, and reflect the important policies they had established as being necessary to ensure the needs of vulnerable adults were met.

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| **Principles from How Can We *Help* Report** | |
| 1 | All adults have the right to autonomy and self-determination, and the right to enjoy the fundamental rights and freedoms prescribed in the *Canadian Charter of Rights And Freedoms*. |
| 2 | All adults are entitled to receive the most effective, but the least restrictive, least intrusive, and least stigmatizing form of assistance, support, or protection when they are unable to act independently, inter-dependently care for themselves or for their property and financial affairs, particularly where there is a risk that the adult will be subjected to abuse or neglect. |
| 3 | All adults are entitled to the legal presumption that they are capable of making decisions and, where necessary, to support and assistance in order to understand and make informed decisions on their behalf. |
| 4 | The use of court procedures and court orders appointing decision-makers or Guardians for adults should occur only as an absolute last resort and only after alternatives such as the provision of supports and assistance have been either attempted or carefully considered. |
| 5 | All procedures, protocols, and other processes associated with the provision of support, assistance, or protection shall be intellectually, psychologically, physically, culturally, and financially accessible to all adults. |

The Guiding Principles currently found in the legislation were ultimately derived from these recommendations made by the Joint Committee.

### Implementation of Guiding Principles—What do they mean in the context of practice?

According to Section 2 of the *Act*, the guiding principles apply to the entirety of the law. This means every part of the *Act* must be administered and interpreted in a way that is consistent with the guiding principles.

Guiding principles can also be a tool for informing your own work, even if you do not have obligations under the *Adult Guardianship Act*.

Ask yourself:

* How can I support this adult who is being abused?
* Is this option the least intrusive and most effective option available?

### Additional Reading

April Struthers and Lindsay Neufeld, *BLI: Being Least Intrusive - An Orientation to Practice for Front-Line Workers Responding to Abuse of Aboriginal Older Adults*, online:http://www.nicenet.ca/tools-bli-being-least-intrusive-an-orientation-to-practice-for-front-line-workers-responding-to-abuse-of-aboriginal-older-adults

### First Principle: The Right to Self-Determination

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| **Section 2(a):** All adults are entitled to live in the manner they wish and to accept or refuse support, assistance, or protection as long as they do not harm others and they are capable of making decisions about those matters |

This principle articulates how to weigh the two overarching goals of the legislation:

* Respecting the right to self-determination; and
* Protecting people from harm.

The principle affirms the fundamental right of every person to determine how they wish to live their lives, but notes that this right is not absolute. Provided that the adult's choices do not harm others as a consequence of their actions, and that they retain the capacity to decide for themselves how they want to live, the adult is entitled to such autonomy. The implications of this principle is that only where an adult may be harming others, or does not have the mental capacity to make his or her own decisions, may more formal interventions be considered.”

Importantly, this principle emphasizes that adult protection legislation is not authority for preventing people from making bad decisions. People have a right to live at risk if they have decision-making capacity. Guardianship should not be a tool for controlling people’s lives.

### Second Principle: The Right to the Least Restrictive Form of Intervention

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| **Section 2(b):** All adults should receive the most effective, but the least restrictive and intrusive, form of support, assistance, or protection when they are unable to care for themselves or their financial affairs |

This principle affirms the fundamental right of the adult to receive beneficial help when needed, but not to excess. Excessive and unnecessary assistance is arguably a form of abuse in and of itself.

This principle also emphasizes the fact specific nature of the inquiry—what is the least intrusive most appropriate response will depend on the specific circumstances including:

* What are the options for support available in the community? Each community is unique.
* Who are the helpful people in the adult’s life? Every person has a unique circle of relationships—some people have many people available to assist; some people are very isolated and effectively have no support people in their lives;
* What financial resources are available for purchasing support and assistance?
* What kind of support or assistance would be consistent with the chosen lifestyle of the adult? Depending on preferences of the adult some measures might be more intrusive for one person than another.

### Third Principle: Court-Appointed Guardianship as a Last Resort

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| **Section 2(c):** The court should not be asked to appoint, and should not appoint, guardians unless alternatives, such as the provision of support and assistance, have been tried or carefully considered |

The third principle affirms the protection of vulnerable adults from court-appointed guardians as only being used as a method of last resort. Before a court application can even be considered, it is necessary to ensure that less intrusive, less stigmatizing, and potentially more effective alternatives have been attempted. This principle:

* Affirms that guardianship is not always the ideal option; and
* Suggests there must be some demonstrated effort to explore alternatives first.

### Fourth Principle: Presumption of Capacity

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| **Section 3(1):** Until the contrary is demonstrated, every adult is presumed to be capable of making decisions about the adult's personal care, health care, and financial affairs. |

The common law (i.e.: “judge-made” law, the law based on court decisions) presumption of capacity is affirmed in the fourth principle. It assumes that all adults are able to make, and take responsibility for, decisions about their lives. The burden is on others to establish that an adult cannot make his or her own decisions in a particular area.

The principle reminds us that:

* The presence of disability is not in and of itself evidence of incapacity;
* The burden of proof is on the person alleging incapacity.

### Fifth Principle: Open Communication

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| **Section 3(2):** An adult's way of communicating with others is not grounds for deciding that he or she is incapable of making decisions about anything referred to in subsection (1). |

The fifth principle is a corollary of the fourth principle ensuring the presumption of capacity, underscoring the importance of not presuming that adults are unable to express a decision because of physical or linguistic barriers.

This principle challenges assumptions around disability and communication. It raises questions like:

* Can you connect the adult with services or technology that could support his or her ability to articulate decisions and discuss preferences?
* Have you adequately researched communication options and tools for the older adult you are working with?
* Is your way of working with this older adult respecting the way he or she prefers to communicate?

Ideally this principle ensures that novel, alternative, and often unconventional forms of communication remain valid options for vulnerable adults wishing to communicate choices about support assistance plans, health care treatment, guardianship planning and any other decisions impacting their lives.

Research Assignment

Does your profession or regulatory body have a Code of Ethics or Guiding Principles that apply to reporting or responding to abuse of adults? Find that resource and identify the relevant principles. Are they consistent with the AGA Guiding Principles? If your class is interdisciplinary, compare the principles to which various professions or practices sectors are accountable.

**Consider**

How can you use the guiding principles to support your practice?

### Activity

*Inez is a fit and active 73 years old who has recently been diagnosed with early stage dementia. As a result, Inez has become a little forgetful. Last week she took a wrong turn while riding her bike home from the shops and eventually had to ask a person on the street for directions home. Yesterday she burned her dinner because she got distracted watching the news, but she has never been a good cook. When filling out a form at her doctor’s office Inez couldn’t remember a lot of her medical history information and when paying for her prescription she got a bit confused about whether her money was in her savings or chequing account. She remembered as soon as she got home though, as she often does.*

*Inez currently lives alone in a small apartment in Vancouver and has one adult child, Doug, who moves around a lot with his work and is currently living in Europe. Doug and Inez have always been very close in spite of his travel. Inez has a few good friends and is also known at her local community association where she spends lots of time and volunteers in the kitchen. Inez is aware that she has been diagnosed with dementia and understands that the condition will continue to deteriorate. Inez recognizes that she needs some assistance now at home and with tasks such as paying bills, the upkeep of her apartment, and understanding her medical condition and care requirements. Inez has some clear ideas about what dementia medications she is prepared to take and which ones she is not, due to their known side effects. She is also clear as to the sort of end-of-life care she would like, when the time comes. Inez knows that the assistance required will increase over time, however she is adamant that she stay living in her apartment for as long as possible and certainly intends to keep riding her bike.*

*Inez has always enjoyed travelling and has a trip planned at the end of the year to visit Paris on her own and also to spend a few days with her son, who she hasn’t seen for 2 years. Her dementia diagnosis has not changed her plans. The diagnosis has affected her view of life and what is important to her. She has indicated her intention to give a large portion of her moderate savings to the family next door – they have always looked out for her and been friendly but have struggled financially, in part due to the full-time care their disabled son requires.*

*Melanie, one of Doug’s daughters, who visits Inez only rarely, recently contacted the health authority with concerns about Inez’s upcoming trip to Europe. She has expressed an interest in being the committee of estate for Inez. There is a long family history of Melanie not getting along with either Inez or Doug. Inez is thinking about getting a representation agreement and naming her best friend Alice and Melanie does not like this plan.*

The guiding principles must be used to inform application of the law, but they can also support your own work, even if you are not a judge or a designated responder under the law.

Discuss the various possible responses available in the circumstances laid out in the above scenario. Which response might be the least intrusive option? What kind of experience might an older person have in the absence of such principles? Depending on your area of practice (lawyer, nurse, doctor...) what kind of steps or policies could you imbed into your work to ensure you espouse those principles in your own work, e.g. talk to the older adult as soon as possible about his or her views. What kind of questions might you want to explore in order to develop a good response to Inez’s situation?

## Mental Capacity and Consent

*Krista James, National Director, Canadian Centre for Elder Law*

This unit will examine two key legal concepts that may come up in the context of elder abuse or neglect: mental capacity and consent.

### Mental Capacity (or Mental Capability)

The terms mental capacity, mental capacity, capacity and capability are generally used interchangeably in the context of laws and legal issues that apply to elder abuse and neglect.

Although standards for capacity vary with different laws and legal decisions, at its core, mental capacity is about decision-making, and refers to the mental ability to understand the nature and effect of actions or events. Capacity is a legal concept associated with legal rights—the right to make certain kinds of decisions.

As the Canadian Centre for Elder Law has written:

|  |
| --- |
| Definitions of capacity vary across jurisdictions and have evolved over the years. The key to many recently-revised definitions is the notion that a capable adult must be able to understand information, evaluate data, and appreciate the consequences of decisions. In this sense, capacity is about a person's decision-making process, and it is neutral to the outcome of that process.[[44]](#footnote-44) |

Capacity is not binary or absolute. A person may be incapable of making some decisions, while remaining capable for others. A finding of incapacity may therefore be limited to financial matters or to personal care decisions.

As explained in the previous unit on guiding principles, at law capacity is always presumed unless proven otherwise.

Mental capacity is typically concerned with the effect of mental disability, illness, or impairment on a person's capacity to create or enter into legal relations or make personal, health, financial or legal decisions. When dealing with older adults, mental capacity becomes an especially important issue to consider when illnesses such as dementia, Alzheimer's disease, delirium, and other conditions are involved.

Capacity is not a pure legal concept. A finding of incapacity will often be grounded in medical and personal information about the individual, and may be determined by a formal or informal assessment of an individual. However, legislation does not set out medical tests or assessment tools for determining capacity. These are determined by standards of good practice for the disciplines and the right test will depend on the nature of the decision at issue and other factors.

Whether a person has legal right to do certain things will depend on whether they meet the capacity standard set out in the appropriate laws. Some standards are set out in a statute; others have been created by judges through court decisions. The latter are referred to as common law tests of capacity. They include:

* Capacity to make a will
* Capacity to marry
* Capacity to separate
* Capacity to sign a contract
* Capacity to hire a lawyer and give them instructions

Although capacity is a legal concept, a loss of legal capacity can have a significant emotional impact. Preserving the adult's ability to make decisions where possible is vitally important, and capacity should not be taken away lightly—the ability and choice to freely make decisions is a core human right.[[45]](#footnote-45)

### The Continuum of Capacity

In practice a person may have fluctuating or diminishing capacity. They may be more able to make decisions at certain times of day or capacity may improve or worsen overtime depending on various factors including health, stress, addictions and medication.

As a result, capacity is generally attached to decisions rather than the individual themselves. A person may be capable of some tasks or decisions, while being incapable of others, and individual factors must be examined to determine the scope of the person's decision-making capacity. Under the common law, the question of capacity is viewed on a continuum. If a person's mental illness or disability exceeds a legal threshold, only then will that person be considered incapable. Ultimately the notion of a continuum underscores that each person is unique and that *individuals* may be capable of some tasks or *decisions* while being incapable of others.

### Comparing Standards of Capacity: *Representation Agreement Act* versus *Power of Attorney Act*

Various laws in BC set out different standards of capacity. In BC, two key statutes empower a person to appoint substitute decision-makers: The *Power of Attorney Act* and the *Representation Agreement Act*. A comparison of these two statutes illustrates how standards for capacity can vary.

Section 8 of the *Representation Agreement Act* defines capacity for a standard section 7 agreement as follows:

|  |
| --- |
| 1. An adult may make a representation agreement [...] even though the adult is incapable of    1. making a contract,    2. managing his or her health care, personal care, or legal matters, or    3. the routine management of his or her financial affairs. 2. In deciding whether an adult is incapable of making a representation agreement consisting of one or more of the standard provisions authorized by [the *Act*], or of changing or revoking any of those provisions, all relevant factors must be considered, for example:    1. whether the adult communicates a desire to have a representative make, help make, or stop making decisions;    2. whether the adult demonstrates choices and preferences and can express feelings of approval or disapproval of others;    3. whether the adult is aware that making the representation agreement or changing or revoking any of the provisions means that the representative may make, or stop making, decisions or choices that affect the adult;    4. whether the adult has a relationship with the representative that is characterized by trust. |

Section 12 of the *Power of Attorney Act* defines incapacity as follows:

|  |
| --- |
| 1. An adult may make an enduring power of attorney unless the adult is incapable of understanding the nature and consequences of the proposed enduring power of attorney. 2. An adult is incapable of understanding the nature and consequences of the proposed enduring power of attorney if the adult cannot understand all of the following:    1. the property the adult has and its approximate value;    2. the obligations the adult owes to his or her dependants;    3. that the adult's attorney will be able to do on the adult's behalf anything in respect of the adult's financial affairs that the adult could do if capable, except make a will, subject to the conditions and restrictions set out in the enduring power of attorney;    4. that, unless the attorney manages the adult's business and property prudently, their value may decline;    5. that the attorney might misuse the attorney's authority;    6. that the adult may, if capable, revoke the enduring power of attorney;    7. any other prescribed matter. |

This comparison imbeds a notion of a continuum of capacity, that a person may have capacity to enter into certain agreements but not others.

Additional reading  
BC Adult Abuse and Neglect Prevention Collaborative, Provincial Strategy Document: Vulnerability and Capability Issues in BC (2009), online: <http://www.bcli.org/project/vanguard>.

### Consent

**(a) What is consent?**

Consent, as a legal concept, refers to the right of a person to agree to a decision. Consent takes many forms, and we consent to things every day of our lives. It is a basic element that is required when agreeing to a contract, for example; you cannot bind yourself in a contract if you do not agree to the terms.

Consent is not defined in the *Adult Guardianship Act*. Elements of consent are set out in the *Health Care (Consent) and Care Facility (Admission) Act:*

Section 6

An adult consents to health care if

* 1. the consent relates to the proposed health care,
  2. the consent is given voluntarily,
  3. the consent is not obtained by fraud or misrepresentation,
  4. *the adult is capable of making a decision about whether to give or refuse consent to the proposed health care,*
  5. the health care provider gives the adult the information a reasonable person would require to understand the proposed health care and to make a decision, including

(i) information about the condition for which the health care is proposed,

(ii) the nature of the proposed health care,

(iii) the risks and benefits of the proposed health care that a reasonable person would expect to be told about, and

(iv) alternative courses of health care, and

(f) the adult has an opportunity to ask questions and receive answers about the proposed health care.

As can be seen from the above list, one of the elements of consent in the health care context is that the adult is *capable* of making a decision about whether to give or refuse consent to the proposed health care (subsection (d)). The *Act* goes on to specify what capacity means in this context:

Section 7 When deciding whether an adult is incapable of giving, refusing or revoking consent to health care, a health care provider must base the decision on whether or not the adult demonstrates that he or she understands

1. the information given by the health care provider under section 6 (e), and
2. that the information applies to the situation of the adult for whom the health care is proposed.

Consent to health care may be expressed:

* Orally; or
* In writing; or
* May be inferred from conduct.

Consent may also be given in an advance directive, which is essentially instructions a person has provided at an earlier point in time when they had capacity to do so (see Unit 2 for further information). With some exceptions, consent to health care applies only to the specific health care that an adult has consented to.[[46]](#footnote-46)

In a medical or personal care context, consent is required each time a medical practitioner or a caregiver wishes to initiate service or treatment (except in emergencies or in certain specific situations as prescribed by law). As treatment escalates or changes, or as new information becomes available, consent may need to be re-affirmed.

The voluntariness of the consent is an important consideration in the context of consent and older adults. Older adults may be more vulnerable to duress and coercion, even from well-meaning family members who believe they have the adult’s best interests at heart.

(b) Temporary Substitute Decision Makers

Where a person is deemed not capable of providing consent with respect to their health care a health care provider can obtain consent from a substitute decision maker (known as a Temporary Substitute Decision Maker, or TDSM). In accordance with section 16 of the *Act*, a health care provider must choose the first of the following who is available and who qualifies:

(a) the adult's spouse;

(b) the adult's child;

(c) the adult's parent;

(d) the adult's brother or sister;

(d.1) the adult's grandparent;

(d.2) the adult's grandchild;

(e) anyone else related by birth or adoption to the adult;

(f) a close friend of the adult;

(g) a person immediately related to the adult by marriage.[[47]](#footnote-47)

The TDSM must also meet the following criteria:

(a) be at least 19 years of age,

(b) have been in contact with the adult during the preceding 12 months,

(c) have no dispute with the adult,

(d) be capable of giving, refusing or revoking substitute consent, and

(e) be willing to comply with the duties in section 19.[[48]](#footnote-48)

If no-one on this list is available and qualifies, the health care provider must choose another person authorized by the Public Guardian and Trustee.[[49]](#footnote-49)

Duties of a TDSM (as set out in section 19) include:

* Consulting, where possible, with the person before making a decision;
* Following the person’s known instructions or wishes; and
* Acting in their best interest.

### 4.2.6 – Consent and Abuse

The ability to consent and a person’s vulnerability are conceptually linked. Guardianship and substitute decision-making frameworks exist to protect incapable adults who are vulnerable to abuse. Ironically, these tools, when misused or abused, can result in the abuse of the adult they were designed to protect.

Abuse can be physical, mental or emotional harm, or result in damage to financial assets. Abuse is not always intentional - well-meaning people and agencies make mistakes or simply do not have sufficient knowledge or understanding to use the powerful tools available to them in a manner which respects the adult and their right to maximum self-determination.[[50]](#footnote-50)

One may not be able to consent to a decision or a course of action if they are not capable of understanding the consequences of the decision, or to communicate their approval or disapproval about the decision. A decision made on a person's behalf without their consent is not enforceable, and may amount to elder abuse.

Consent may be questioned in cases where:

* The consent it is obtained fraudulently as a result of a scam or a crime;
* The consent is obtained by force as a result of duress or coercion;
* The person giving the consent is not capable of understanding the consequences of the decision; or
* Important information relating to the decision for which the person gave consent was withheld (i.e., consent was not informed).

Some legal tools give decision-making authority to another person. This can remove the need to obtain consent from the older adult themselves. These include:

* A power of attorney - transfers decision-making authority on all financial and legal matters to the attorney
* A representation agreement - may name a representative to make decisions regarding the health care and routine financial matters of the adult, and set out the person’s wishes with respect to these matters.
* An advance directive – gives instructions to health care providers on how to provide services to them if they are rendered incapable of giving or refusing consent to treatment.
* Temporary Substitute Decision Maker – permits health care professionals to obtain consent to health care from a statutory list of people where the adult is incapable of providing the consent and has not nominated an alternative decision-maker.
* Guardianship - an individual’s legal right to make all or some of their personal, health care or financial decisions is removed, and a separate person, sometimes but not always a family member, is given the legal authority to make decisions on the adult’s behalf.

These tools were introduced in Unit 2 and are developed further in Unit 5 – Supportive and Substitute Decision Making.

Such tools, which allow a person to make decisions on behalf of vulnerable adult, can be very useful for advanced planning, but may also be used fraudulently or inappropriately, resulting in the abuse of the adult they were designed to protect.

### Research Activity

Standards of practice and mental capacity: Different professions may be subject to unique codes of ethics, practice guidelines or standards, or regulations respecting working with clients or patients with reduced capacity. Find out any documents that provide guidance in your practice sector or profession. You may wish to contact your licensing body if you are a regulated professional.

Identify any best or promising practices for your sector in serving clients or patients with mental capacity challenges.

### Evaluation Activities

Define mental capacity/capability

Mental capacity can fluctuate—identify some factors or circumstances that might negatively temporarily impact mental capacity.

**Discussion**

Can you think of some situations in your own work where you might have to seek consent from an older adult client or patient?

## Supportive and Substitute Decision-Making in BC

*Krista James, National Director, Canadian Centre for Elder Law*

This reading discusses supportive and substitute decision-making in British Columbia. The reading examines key concepts and legislation.

**LEARNING**

**GOALS**

By the end of this reading, you will be familiar with:

1. The difference between supportive and substitute decision-making

\*

2. The legal documents in BC that recognize supportive and substitute decision-making relationships

\*

3. Roles and limits of supportive and substitute decision-makers

Substitute decision-makers can be:

* Committee of estate and committee of person appointed by the court
* The Public Guardian and Trustee as statutory property guardian (i.e. committee of estate) under a certificate of incapability or as committee of estate and/or person appointed by the court; or
* Attorneys or representatives appointed by power of attorney or representation agreement.

Note: Rules for issuing a certificate of incapability under the *Adult Guardianship Act* and authorizing the Public Guardian and Trustee to become statutory property guardian come into force on December 1, 2014.

### 

### Substitute Decision-making and Elder Abuse

Anyone who meets the standard of mental capacity set out in the relevant law can enter into a substitute decision-making relationship. Many factors and common themes make substitute decision-making (and arguably also supportive decision-making) particularly relevant to discussions of elder abuse.

1. Representation agreements and powers of attorney can be used to help protect a person’s rights and interests; however, because they grant significant power they can also be used as tools for abuse or neglect. Guardians have also been known to misuse their authority and abuse or neglect an older person.
2. Although any adult with mental capacity can appoint a representative or a power of attorney, these documents are increasingly being used by older people to designate a decision-maker to step in if they are unavailable (e.g. travelling) or become mentally incapable. In this sense powers of attorney are a common advance planning tool.
3. Financial elder abuse perpetrated through misuse of a power of attorney is the most commonly reported form of elder abuse.
4. As there is increasing public focus on the prevalence of Alzheimer’s and other dementias, many people are exploring substitute decision-making instruments for protecting their assets and their health and personal care wishes.
5. Due to the lower capacity threshold, representation agreements can be available as a substitute or supportive decision-making tool even where an older person demonstrates some loss of capacity.
6. There is a general low public awareness of rights and responsibilities vis-à-vis supportive and substitute decision-making, which presents many possibilities for unintentional abuse.
7. Adults with reduced capacity are arguably at greater risk of abuse because they may be less able to notice or respond effectively to abuse or neglect.
8. Forcing or pressuring an older adult into signing a representative agreement or a power of attorney is itself a form of elder abuse.
9. Sometimes older people are effectively forced to enter into substitute decision-making relationships, e.g. on entry into a congregate housing setting or opening up an account with a financial institution they could be required to sign a power of attorney, which may be illegal or at least necessitate the client access independent legal advice.
10. Sometimes a committee (substitute decision-maker) is appointed by the court in order to protect an older adult who has experienced elder abuse but is not able to protect him or herself. In this sense appointing a substitute decision-maker can be a response to elder abuse.

The above statements are less true of representation agreements being used for supportive decision-making. It is not clear that a significant number of older people are entering into new supportive decision-making agreements as they age, and there is much less documentation of abuse perpetrated through representation agreements than powers of attorney.

### Substitute Decision-Making

(a) Guardianship (also known as “committeeship in BC)

As defined by the Canadian Centre for Elder Law's paper for the Law Commission of Ontario, guardianship is:

|  |
| --- |
| A form of substitute decision-making where an individual’s legal right to make all or some of their personal, health care or financial decisions is removed, and a separate person, sometimes but not always a family member, is given the legal authority to make decisions on the adult’s behalf.  The guardian becomes empowered to make significant decisions on behalf of the adult, and communicate directly with individuals such as physicians, lawyers, teachers, social workers, landlords, and staff at financial institutions regarding decision-making and implementation of decisions. Guardians also acquire access to an adult’s personal information[[51]](#footnote-51) |

Guardianship is a substitute decision-making system which exists to take care of individuals who no longer have the capacity to care for themselves.

The processes for appointing a committee in BC are complex and not covered in this reading.

### Additional Reading

A Guide to the Certificate of Incapability Process Under the *Adult Guardianship Act,* available on the Public Guardian and Trustee website at [www.trustee.bc.ca](http://www.trustee.bc.ca).

(b) Substitute Decision-Making by Agreement

The two key ways to appoint a legal substitute decision-maker in BC are to appoint a representative under the *Representation Agreement Act* or an attorney under the *Power of Attorney Act*.

Key differences:

| **Enduring Power of Attorney** | | **Representation Agreement, Standard section 7 agreements** |
| --- | --- | --- |
| **Statute** | ***Power of Attorney Act*** | ***Representation Agreement Act*** |
| **Purpose** | Financial and legal decisions | * Personal care * Routine financial affairs * Major and minor health care * Obtaining legal services * Admission to a family care home or group home for the mentally handicapped |
| **Capacity Standard** | Must understand:  (a) the property the adult has and its approximate value;  (b) the obligations the adult owes to his or her dependants;  (c) that the adult's attorney will be able to do on the adult's behalf anything in respect of the adult's financial affairs that the adult could do if capable, except make a will, subject to the conditions and restrictions set out in the enduring power of attorney;  (d) that, unless the attorney manages the adult's business and property prudently, their value may decline;  (e) that the attorney might misuse the attorney's authority;  (f) that the adult may, if capable, revoke the enduring power of attorney;  (g) any other prescribed matter. | All relevant factors must be considered, for example:  (a) whether the adult communicates a desire to have a representative make, help make, or stop making decisions;  (b) whether the adult demonstrates choices and preferences and can express feelings of approval or disapproval of others;  (c) whether the adult is aware that making the representation agreement or changing or revoking any of the provisions means that the representative may make, or stop making, decisions or choices that affect the adult;  (d) whether the adult has a relationship with the representative that is characterized by trust. |
| **Formalities** | Signed by adult and the attorney in the presence of 2 adult witnesses, or 1 witness if the witness is a lawyer or notary.  Must be notarized if it grants the attorney the power to buy or sell land. | Signed by adult and the representative in the presence of 2 adult witnesses, or 1 witness if the witness is a lawyer or notary. |

### Activity - What decisions can be covered by which type of agreement?

Look up both statutes named above, as well as the corresponding regulations. Compare further the types of decisions that can be covered by agreements created under either statute. Also compare the different types of decisions covered by Section 7 versus section 9 of the *Representation Agreement Act*. Review in particular, *Power of Attorney Act*, s 13 and the *Representation Agreement Act*, s. 7, 9, and the Regulation s 2.

### Supportive Decision-Makers

Representation agreements are the legal documents in BC that recognize supportive decision-making relationships. Likely, many people have informal “helpers” who support their decision-making, as many of us make decisions socially, consulting with people we trust and care about. But “formal” supportive decision-making goes further. Representation agreements creating supportive or substitute decision-making relationships should set out the specific powers and scope of authority in the agreement. The key significance of documenting a relationship formally by way of an agreement is to impact on how other individuals and institutions respect that relationship. Supportive decision-makers, for example, may be able to:

* Access personal information of the older adult;
* Speak directly with key people, such as teachers, landlords, physicians, social workers, bank or credit union staff, or employment and assistance worker

The term supportive decision-maker is not found in the *Representation Agreement Act*, the legal authority for creating a representation agreement. Instead the *Act* refers to “helping the adult make decisions,” which is a concept not defined in the *Act*. Based on research, supportive decision-makers appear to “support” an adult to:

* Understand the issues involved in a decision;
* Understand the consequences of a decision;
* Access the appropriate assistance or information;
* Express his or her views and act as interpreter where needed;
* Have his or her wishes be heard by an institution or individual;
* Help another individual or institution appreciate that the adult is a person with needs, rights, values, preferences and goals—sometimes people are dismissive of people with disabilities, and support or education to help them appreciate the autonomy, dignity and wisdom of an adult is useful.

The role of the supporter has been described in this way:

* Respect and value the supported person’s autonomy and dignity.
* Know the supported person’s goals, values and preferences.
* Respect the individual decision making style of the supported person and recognize when and how support may be offered.
* To form a trusting relationship with the supported person.
* Be willing in the role of supporter, to fulfil their duty to the supported person, and not use this role as a way of advancing their own interests or any other person’s interests.
* To be able to spend as much time as is required to support a person make each decision.[[52]](#footnote-52)

Supportive decision-makers share roles and responsibilities similar to those of substitute decision-makers, such as attorneys appointed with a power of attorney, court-appointed guardians appointed under the *Adult Guardianship Act*, and representatives appointed with a representation agreement. However, the key difference is that supportive decision makers *do not make decisions on behalf of the older adult*.

### Advanced Learning - Additional information on supported decision-making

Creating a supportive decision-making agreement

The requirements for creating a supportive decision-making agreement are straight-forward. The agreement requires proper form and execution, that is to say, that it be written and signed by the adult and the supportive decision-maker and two adult witnesses, or one witness if that witness is a lawyer or notary.[[53]](#footnote-53)

### Appointing a Supportive Decision-Maker

### Who can make an agreement?

The law presumes all adults are mentally capable of making a representation agreement. The *Act* lists factors to consider in assessing whether an adult is incapable of creating a standard section 7 agreement. They are:

1. whether the adult communicates a desire to have a representative make, help make, or stop making decisions;
2. whether the adult demonstrates choices and preferences and can express feelings of approval or disapproval of others;
3. whether the adult is aware that making the representation agreement or changing or revoking any of the provisions means that the representative may make, or stop making, decisions or choices that affect the adult;
4. whether the adult has a relationship with the representative that is characterized by trust.[[54]](#footnote-54)

### Who can be a representative?

The *Act* says an adult can name:

(a) an individual who is 19 years of age or older, other than an individual who

(i) provides personal care or health care services to the adult for compensation, or

(ii) is an employee of a facility in which the adult resides and through which the adult receives personal care or health care services;

(b) the Public Guardian and Trustee;

(c) a credit union or trust company as long as the credit union's or trust company's area of authority under the representation agreement does not include health care or personal care.[[55]](#footnote-55)

A supportive decision-maker would likely be a friend or family member.

### Duties

Once appointed, the supported-decision-maker is required to:

* 1. act honestly and in good faith; and
  2. exercise the care, diligence and skill of a reasonably prudent person.[[56]](#footnote-56)

### Scope of Authority

The scope of authority will be set out in the agreement.

The kinds of decisions that can be covered by a representation agreement include:

* personal care
* the routine management of their finances (paying bills, receipt and deposit of income, purchases of food, accommodation, and other services necessary for personal care, and the making of investments)
* major and minor health care
* obtaining legal services
* the admission to a family care home, group home for the mentally handicapped, or mental health boarding home
* any other issue relating to personal or health care of the adult specified in the agreement[[57]](#footnote-57)

The representative *may not*, however, assist the adult with decisions relating to the refusal to accept health care necessary to preserve life, nor physically restrain, move, or manage the adult, or authorize another person to do so.[[58]](#footnote-58)

### Oversight

To make sure the representative acts responsibly, a “monitor” may be named in the representation agreement to supervise the relationship between the representative and the adult, and make sure the former is acting responsibly, in good faith, and with the care, skill, and diligence of a reasonably prudent person.

The monitor may also meet with the adult and speak with them at any time to make sure that they are not being mistreated, and that the assistance they are receiving to help make decisions is proper and appropriate. If the monitor has reason to believe the representative is acting inappropriately, they may:

* require the representative to produce records and documents justifying their actions;
* require the representative to report regularly to the monitor; or as a last resort
* inform the Public Guardian and Trustee, who will respond to the complaint. [[59]](#footnote-59)

A representation agreement will only go to court if it is merely a matter of seeking directions on how to act, or if the Public Guardian and Trustee pursues an objection by a party.[[60]](#footnote-60) Otherwise, the representation agreement is a private agreement between the adult and the representative.

### Additional Reading

Canadian Centre for Elder Law, “Understanding the Lived Experiences of Supported Decision-Making in Canada: A Study Paper” (March 2014), online: Law Commission of Ontario <[**http://www.lco-cdo.org/capacity-guardianship-commissioned-paper-ccel.pdf**](http://www.lco-cdo.org/capacity-guardianship-commissioned-paper-ccel.pdf)>

United Nations Enable, Convention on the Rights of Persons with Disabilities, Chapter Six: From provisions to practice: implementing the Convention, online: [**http://www.un.org/disabilities/default.asp?id=242**](http://www.un.org/disabilities/default.asp?id=242)

## How to Assist an Adult Who Is Abused, Neglected or Self-Neglecting: A Decision Tree for Effective Referrals for Adults in BC Who May Be Vulnerable and/or Incapable

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See the Public Guardian and Trustee of BC website for the most recent version of the Decision Tree and the accompanying video series “Responding to Abuse, Neglect and Self Neglect in BC”

http://www.trustee.bc.ca/Pages/default.aspx

## Macintosh HD:Users:michelleglubke:Desktop:to add :Decision Tree Full - Oct 17 Final - sent to BCCampus - solid fill.pdfMacintosh HD:Users:michelleglubke:Desktop:Decision Tree p2 Final Oct 17.pdf

## Privacy Laws

*Krista James, National Director, Canadian Centre for Elder Law*

**LEARNING**

**GOALS**

By the end of this reading, you will be familiar with:

1. Privacy laws in BC

\*

2. How privacy laws impact practice

\*

3. Exceptions for disclosure without consent

Privacy laws cover when and how information can be collected, used and released. Each province has created its own legislation that applies to public and private bodies. Privacy law is very complex, and there are differences not only between the laws that apply to the various provinces and territories, but between those that apply to public and private organizations. Another challenge to practice is that privacy legislation is often amended—keeping your practice current requires access to up to date resources.

In this reading, we introduce the three main laws regulating the privacy of personal information in British Columbia. They are:

* *Personal Information Protection Act* (PIPA);
* *Freedom of Information and Protection of Privacy Act* (FOIPPA); and
* *Personal Information Protection and Electronic Documents Act* (PIPEDA).

The key distinctions are:

* PIPA applies to private bodies in British Columbia
* FOIPPA applies to public bodies in British Columbia
* PIPEDA is a federal statute that applies across Canada to federal organizations, and where provincial statutes have gaps or (as is the case in certain provinces) is non-existent.

This reading discusses:

* How to tell which law applies to your practice
* Key exceptions to the requirement to get a person’s consent to disclose their personal information without consent
* Risks and issues associated with disclosure without consent
* Anticipated amendments to PIPEDA that may impact on elder abuse response

This reading is intended as a basic introduction to basic ideas underlying legislation governing personal information. As privacy law is very complex, varied and dynamic it is important for organizations and employers to develop policy and guidelines to support practice. Also, privacy statutes cover many topics, including collection, use and disclosure, and this reading only provides a very brief introduction to the concept of disclosure without consent. Ideally, practice should be consistent within a single organization, and front line staff should not be required to interpret complex legislation in order to respond appropriately to practical and ethical dilemmas.

Finally, although this reading discusses disclosure without consent, we do not encourage disclosure without consent. In most instances it is most appropriate and ethical to disclose information only if you have a prior informed consent.

### What Law applies to my Practice?

Although privacy laws are consistent in terms of their general purposes, the specific exceptions to disclosure vary. In understanding your obligations to a client or patient it is important to know which laws apply to your practice.

FIPA applies to private bodies. This includes:

* Businesses and corporations
* Long-term care facilities
* Private assisted living facilities,
* Trade unions
* Credit unions
* Political parties
* Non-profit organizations

FOIPPA applies to public bodies, including:

* Regional hospitals
* Government agencies (including a health care, social services or educational body)
* Governing body of a profession or occupation
* A municipality or regional district
* Municipal police board
* Universities
* BC coroner’s service
* BC Human Rights Tribunal
* BC Patient Safety and Quality Council
* Employment Assistance and Appeal Tribunal
* Legal Services Society
* Office of the Ombudsperson
* Public Guardian and Trustee
* Community Living BC

The definitions sections of FOIPPA and Schedule 2 provide a very lengthy list of public bodies in BC.

The above lists are not exhaustive. If there is any doubt as to which law applies your organization you should get a legal opinion.

PIPEDA applies to organizations which are involved in “federal work, undertaking, or businesses” in provinces and territories, including[[61]](#footnote-61):

* inland or maritime navigation and shipping
* railways, canals, telegraph, and any other work connecting provinces together or that extends beyond the limits of a province
* ferries and ship lines connecting provinces or extending outside the limits of a province
* aircraft and air lines
* radio broadcasting
* banks

PIPDEA also applies in provinces which have not enacted their own equivalent provincial privacy legislation.[[62]](#footnote-62) By virtue of having enacted both PIPA and FOIPPA, these statutes take precedence in British Columbia when dealing with all other organizations that are not performing federal work as described above.

Finally, the *Act* specifically does not apply to “any organization in respect of personal health information that it collects, uses, or discloses.”[[63]](#footnote-63) This effectively means that the information regulated by PIPEDA is mostly personal, identification, and financial information.

### Provincial Legislation

### The Purpose of Legislation Governing Privacy of Personal Information

The legal obligations of organizations, their employees, and their volunteers, to collect, use and disclose personal and health information are laid out in the text of PIPA and FOIPPA.

|  |  |
| --- | --- |
| ***Personal Information Protection Act* (PIPA)** | ***Freedom of Information and Protection of Privacy Act* (FOIPPA)** |
| **Section 2:** The purpose of this *Act* is the govern the collection, use, and disclosure of personal information by organizations in a manner that recognizes both the right of individuals to protect their personal information and the need of organizations to collect, use, or disclose personal information for purposes that a reasonable person would consider appropriate in the circumstances. | **Section 2(1)** The purposes of this *Act* are to make public bodies more accountable to the public and to protect personal privacy by:   1. giving the public a right of access to records, 2. giving individuals a right of access to, and a right to request correction of, personal information about themselves, 3. specifying limited exceptions to the rights of access, 4. preventing the unauthorized collection, use, or disclosure of personal information by public bodies, and 5. providing for an independent review of decisions made under this *Act*. |

Professional confidentiality ensures that a person's personal or health information is kept private once it is collected by an organization. Only in limited circumstances set out in the statutes should this information can be divulged.

### Disclosure Under PIPA and FOIPPA

In terms of elder abuse, a key practice question that often comes up is, “under what circumstances can I disclose a client or patient’s personal information without their consent?”

Normally, organizations and practitioners must get consent from their clients, patients or service users before collecting and disclosing personal information. Every privacy law lays out a series of exceptions to the rule that prior consent is required. The exceptions strive to strike a balance between protecting the privacy of personal information and fulfilling other public policy goals, such as the protection of the public (providing emergency treatment, assisting police investigation), supporting debt collection, enforcing other legislation, and contacting next of kin. The lists of exceptions are very long.

A practitioner or organization may disclose confidential personal or health information about a person (a resident, client, patient, etc.) without their consent under some limited circumstances. The table below sets out some of the exceptions that may apply to elder abuse. The statutory list is much longer.

| ***Personal Information Protection Act* (PIPA)** | ***Freedom of Information and Protection of Privacy Act* (FOIPPA)** |
| --- | --- |
| **Required for health and safety reasons**  Can disclose personal or health care information without consent under the following circumstances:   * If compelling circumstances exist that affect the health or safety of any individual. (s.18(k)) * If disclosure is necessary for the medical treatment of the individual and the individual does not have the legal capacity to consent. (s.18(b)) * the disclosure is clearly in the interests of the individual and consent cannot be obtained in a timely way (s.18(a)), | **Required for health and safety reasons**  Can disclose personal or health care information without consent under the following circumstances:   * If, (i) the head of the public body determines that compelling circumstances exist that affect anyone's health or safety, and (ii) notice of disclosure is mailed to the last known address of the individual the information is about, unless the head of the public body considers that giving this notice could harm someone's health or safety (33.1(1)(m) * For the purpose of reducing the risk that an individual will be a victim of domestic violence, if domestic violence is reasonably likely to occur (33.1(1)(m.1) |
| **Authorized by another law**   * As required or authorized by another law [such as to notify a designated agency about abuse] (s.18(1)(o)) | **Authorized by another law**   * As required or authorized by another law [such as to notify a designated agency about abuse] (s.33.1(1)(c)) |
| **To support justice proceedings**   * the disclosure is for the purpose of complying with a subpoena, warrant or order issued or made by a court, person or body with jurisdiction to compel the production of personal information (s.18(i)) * the disclosure is to a public body or a law enforcement agency in Canada, concerning an offence under the laws of Canada or a province, to assist in an investigation, or in the making of a decision to undertake an investigation,   (i) to determine whether the offence has taken place, or  (ii) to prepare for the laying of a charge or the prosecution of the offence (s.18(j)) | **To support justice proceedings**   * to comply with a subpoena, a warrant or an order issued or made by a court, person or body in Canada with jurisdiction to compel the production of information (33.1(t)) * to a public body or a law enforcement agency in Canada to assist in a specific investigation   (i) undertaken with a view to a law enforcement proceeding, or  (ii) from which a law enforcement proceeding is likely to result (33.2(i)) |
| **Disclosure consistent with the purpose of collection**  May disclose if  (a) the individual consented to the collection of the personal information by the organization, and  (b) the personal information is disclosed to the other organization solely  (i) for the purposes for which the information was previously collected, and  (ii) to assist the other organization to carry out work on behalf of the first organization.  (18(2)) | **Disclosure consistent with the purpose of collection**  May disclose…for the purpose for which it was obtained or compiled or for a use consistent with that purpose (33.2(a)) |
| **Exception:**  Information subject to solicitor-client privilege cannot be disclosed. | |

### Additional Reading

Review the full lists of legislated exceptions to disclosure without consent. They can be found in PIPA, s.18(1), FOIPPA, s. 33.1 and 33.2.

### *The Federal Personal Information Protection and Electronic Documents Act*

### Purpose of PIPEDA

According to Section 3 of the *Act,* its purpose is to govern the collection, use, and disclosure of personal information in a manner that balances of the goals of, on the one hand, personal information protection, and on the other hand, enabling reasonable commercial practices with respect to the collection, use, and disclosure of personal information.

### Disclosure under PIPEDA

The general rule is that consent is required to disclose a person’s information. However, like PIPA and FOIPPA, it is legal to disclose a person’s information without consent in specific circumstances. The list is set out in section 7(3) of the *Act*. Below are a few exceptions that might be related to elder abuse. Importantly, the law permits disclosure under certain circumstance but only to particular bodies.

* required to comply with a subpoena or warrant issued or an order made by a court, person or body with jurisdiction to compel the production of information, or to comply with rules of court relating to the production of records (7(3)(c)) **e.g., You may disclose to comply with a court order**
* made to a government institution or part of a government institution that has made a request for the information, identified its lawful authority to obtain the information and indicated that

(i) it suspects that the information relates to national security, the defence of Canada or the conduct of international affairs,

(ii) the disclosure is requested for the purpose of enforcing any law of Canada, a province or a foreign jurisdiction, carrying out an investigation relating to the enforcement of any such law or gathering intelligence for the purpose of enforcing any such law, or

(iii) the disclosure is requested for the purpose of administering any law of Canada or a province (7(3)(c.1)) e.g., **You may disclose to a government body at its request to support an investigation or enforce a law**

* made on the initiative of the organization to an investigative body, a government institution or a part of a government institution and the organization

(i) has reasonable grounds to believe that the information relates to a breach of an agreement or a contravention of the laws of Canada, a province or a foreign jurisdiction that has been, is being or is about to be committed, or

(ii) suspects that the information relates to national security, the defence of Canada or the conduct of international affairs (7(3)(d)) e.g., **You may disclose to a government body or investigative body (e.g. police) at its request if they have reasonable grounds to believe a crime has been, is being or is about to be committed**

* made to a person who needs the information because of an emergency that threatens the life, health or security of an individual and, if the individual whom the information is about is alive, the organization informs that individual in writing without delay of the disclosure (7(3)(e)) e.g., **emergency**
* made by an investigative body and the disclosure is reasonable for purposes related to investigating a breach of an agreement or a contravention of the laws of Canada or a province (7(3)(h.2)) e.g., **respond to police request for information**
* required by law (7(3)(i))

Re elder abuse investigations or concerns, the ability to disclose is fairly limited. Unless there is an emergency, it appears that:

* the disclosure must be in response to a request for information
* the information must be requested by the appropriate body set out in the *Act*, e.g. police, a government agency or part of one
* there must be an investigation of a crime or a crime has been, is being or is about to be committed

### Additional Reading

CCEL, Counterpoint Brochure: Confidential Patient and Client Information, online: <http://www.bcli.org/publication/counterpoint-brochure-confidential-patient-privacy-rights>;

### Disclosure and Consent—Key Questions

Practitioners should explore the following questions:

1. Why is there a need to disclose personal information without consent? The easiest way to ensure compliance with the law is to get informed consent in advance from the older adult before you share their personal information. Is there a reason to proceed without the older adult’s involvement or permission?

2. Consider the facts of a scenario. Is you desire to act without consent of the adult paternalistic under the circumstances? Would you treat a younger adult client in the same manner? Laws are age neutral and older people have the same privacy rights as younger adults.

3. Does your organization have a policy or protocol with regard to sharing client or patient information? Does your agency have a specific policy re responding to elder abuse?

4. Are you a regulated professional, such as a lawyer or physician? If so you may be subject to additional obligations vis-à-vis confidentiality. Find out what those are. Some of these obligations are embedded in other legislation.

5. Does your licensing, professional or regulatory body address confidentiality in their Codes of Conduct or Codes of Ethics? Find them and review.

In terms of ethical practice, it is always preferable to get consent from the older adult. Ideally any response to abuse or suspected abuse should be informed and directed by the older adult in question.

**Consider**

Under what circumstances might you want disclosure without prior consent? Who would you disclose the information to? What would such disclosure accomplish?

What might be some of the negative impacts of disclosure without consent:

Points to explore:

* Intervention occurs before the older adult has time to explore options and develop a safety plan
* Older adult faces retribution if disclosure is to the abuser—e.g. often a family member is the abuser. Abuse escalates.
* Abuse goes further underground and it becomes harder to intervene
* Loss of trust with an adult you are trying to assist or support. This loss of trust can make it difficult to provide useful assistance
* Loss of a client or patient. People take their privacy rights very seriously and a disclosure without consent may cause an older adult to take his or her business elsewhere.
* Lack of a properly informed response. Although someone being abused may be vulnerable, he or she is likely an expert in his or her experience. If you act without speaking to an adult you may react without adequate information.

### Anticipated Amendments to PIPEDA

In 2014, the Ministry of Industry introduced Bill S-4, *The Digital Privacy Act (Amendments to the Personal Information Protection and Electronic Documents Act (PIPEDA*)), which proposes amendments to subsection 7(3) of PIPEDA, including two new subsections which would expand the ability to disclose information without consent in circumstances of financial abuse.

Under Bill C-12 an organization would be able to disclose personal information without the knowledge or consent of the individual if the disclosure is:

1. made to another organization and the disclosure is necessary
   1. to investigate a breach of an agreement, or a contravention of the laws of Canada or a province, has been, is being or is about to be committed, or
   2. **to prevent, detect or suppress fraud** when it is reasonable to expect that the disclosure with the knowledge or consent of the individual would undermine the ability to prevent, detect or suppress the fraud; or
2. made on the initiative of the organization to a government institution, a part of a government institution or the individual’s next of kin or authorized representative and
   1. the organization has reasonable grounds to believe that **the individual has been, is or may be the victim of financial abuse**, and
   2. the disclosure is made solely for purposes related to preventing or investigating the abuse, and
   3. it is reasonable to expect that disclosure with the knowledge or consent of the individual would undermine the ability to prevent or investigate the abuse.

As the CCEL notes: “these amendments were informed by concerns expressed by the Canadian Bankers Association and by many in the public guardian and trustee community during the Parliamentary review of PIPEDA.”[[64]](#footnote-64)

A few points on the amendments:

* They would permit disclosure to a broad group of people, including next of kin
* They appear to permit disclosure in the absence of formal criminal investigation and charges
* The term “financial abuse” is not defined, which allows for a broad application
* The amendments would also allow an organization to respond to the suspicions of elder abuse by giving them the freedom to contact a government institution such as the Public Guardian and Trustee, a substitute decision-maker or other guardian, or another family member.

**Consider**

Consider the potential impact of these amendments on your practice. Is there any government agency in the community in which you practice that might have the authority to respond to concerns about financial abuse? Why would you disclose without consent? Can you see any ethical issues with responding without first have discussions with the older adult?

**Additional Reading**

See the following discussions and critiques of the bill:

Heather Hogan, Bill S-4 (the *Digital Privacy Act):* Protecting Everyone’s Privacy… except Older Adults? online: <http://whaleyestatelitigation.com/blog/2014/04/bill-s-4-the-digital-privacy-act-protecting-everyones-privacy-except-older-adults/>

Michael Geist, Why the *Digital Privacy Act* undermines our Privacy: Bill S-4 Risks Widespread Warrantless Disclosure, online: <http://www.michaelgeist.ca/2014/04/s-4-post/>

Canadian Centre for Elder Law, Financial Abuse of Seniors, online: <http://www.bcli.org/project/financial-abuse-seniors>

Parliament of Canada, Bill S-4

<http://www.parl.gc.ca/HousePublications/Publication.aspx?Language=E&Mode=1&DocId=6524312>

**Consider**

How can your organization address abuse and neglect of seniors while also ensuring privacy protection?

**Research Assignment**

What practices and laws apply to your work?

* Identify all the policies and protocols for personal information disclosure that apply to your workplace.
* Determine if your work is covered by PIPA, FOIPPA or PIPEDA. Identify the exceptions to disclosure that are most likely to apply to your work

## Obligations to Respond

*Krista James, National Director, Canadian Centre for Elder Law*

**LEARNING**

**GOALS**

By the end of this reading, you will be familiar with:

1. Obligations to respond

\*

2. Options to respond

\*

3. Considerations to explore before responding

This reading covers:

* Obligations to respond to abuse
* Options for response
* Key considerations

Key information is provided in the form of two tables.

### The legal duty to respond to abuse in BC

Who has a duty to respond to abuse in BC? The short answer is

* Designated responders under the *Adult Guardianship Act*
* Operators of a community care facility

There is no over-arching duty to respond to elder abuse in Canada. Each province and territory has created its own laws. In some provinces and territories there is a duty to respond to elder abuse in specific circumstances. This unit deals with the law in BC. For a comparative overview of the law across Canada, see CCEL, *A Practical Guide to Elder Abuse and Neglect Law in Canada*.

In BC the *Adult Guardianship Act* applies to all adults, not just older adults. As discussed earlier, the designated agencies have an obligation to respond to reports of abuse of adults who are unable to seek support or assistance, due to:

* physical restraint;
* a physical handicap that limits their ability to seek help; or
* an illness, disease, injury or other condition that affects their ability to make decisions about the abuse or neglect.

Reporting abuse to a designated agency is not mandatory under law in BC. Mandatory reporting is rare in Canada. In comparison, in Nova Scotia everyone has a duty to report abuse (other than financial abuse) and failing to report can attract a fine.[[65]](#footnote-65)

Under BC law, designated agencies have a legal duty to respond to reports. If you work for a designated agency you would be required to refer the situation to a responder in your organization if you do not do this work so the agency can fulfil its legal duty to respond. As discussed in Unit 2, the designated agencies are:

* Fraser Health Authority
* Interior Health Authority
* Northern Health Authority
* Vancouver Coastal Health Authority
* Vancouver Island Health Authority
* Community Living British Columbia (for adults in BC eligible to receive community support under the *Community Living Authority Act*)
* Providence Health Care Society (for adults who are patients or persons in care at hospitals or facilities owned and operated by Providence Health Care Society)[[66]](#footnote-66)

**Advanced Research Assignment**

Nova Scotia is the only province or territory in Canada with mandatory reporting of abuse of adults. Compare the Nova Scotia *Adult Protection Act* and the BC *Adult Guardianship Act*. Consider in particular the purposes section of the legislation (at the beginning of the Act) and what kind of responses are possible under the legislation.

### Options for Response

It is important to consider the following questions when considering options for response when confronted with an incident of elder abuse or neglect. The appropriate response always depends on all the particular circumstances. Although we can learn from experience, every situation is somewhat unique. Knowing the law is not the only issue.

* Is the person in danger of immediate harm? Is this an emergency? If so it may be appropriate to contact the police.
* Has a crime been committed? Does the victim wish to report a crime to the police? If so it may be appropriate to contact the police.
* Is there a need for a protection order or a no contact order to keep an abusive person away? Is so it may be appropriate to initiate criminal proceedings (call the police) or civil action (call legal aid)
* Will money be stolen or property disposed of? In other words, is there a need to act quickly to protect assets? If so it may be appropriate to contact the Public Guardian and Trustee or help the adult to get immediate legal advice about how to protect his or her assets.
* Does the person appear to lack mental capacity? If so, it may be appropriate to contact a designated agency or the Public Guardian and Trustee.
* Does the person seem unable to access support or assistance on their own, possibly due to a disability, illness, impairment, etc.? If so it may be appropriate to contact a designated agency or the Public Guardian and Trustee.
* Is the adult living in a community care facility? If so you should contact the operator, and likely also the designated agency.
* Is the adult being hurt in assisted living? If so you may wish to contact the Office of the Assisted Living Registrar, and likely also the designated agency.
* Is the abuse or neglect being perpetrated by someone managing the older adult’s affairs, such as an attorney, trustee or representative? If so you should contact the Public Guardian and Trustee.

### 

### Responding versus Reporting

This unit is focused on responding and not just reporting. A few points are worth emphasizing:

1. *Reporting is sometimes not possible* because there is no one with authority to respond to that kind of circumstance, e.g. emotional abuse of an adult with mental capacity by a family member. The abuse may be serious, and it may be important to identify a way to support this adult, but there may be not agency with the authority to respond.
2. *Reporting may not be the ideal response.* Even if an adult has been the victim of a crime, e.g., a physical assault, it may not be appropriate to call the police right away. The older person may require other services more imminently, e.g. counseling, legal advice, safe housing or safety planning. The appropriate response always depends on all the circumstances. Sometimes calling the police can put a victim at greater risk of harm.
3. *Reporting may not be the only appropriate response*. Sometimes a report to a designated authority might be appropriate, if not welcome. However, the adult may first require support and assistance to deal with an urgent or imminent risk or situation. If you are learning about the abuse you may have an ongoing personal or professional relationship that puts you in a good position to be an ongoing resource to the older adult.
4. *Responding to abuse can take time*. The notion of reporting suggests a solution is just a phone call away. Sometimes, as a professional, learning about abuse begins a new phase of a relationship with a client or patient, a need to enhance services. There is rarely an easy solution. The notion of reporting raises, rather than resolves, ethical dilemmas.
5. *Reporting is not an isolated incident*. Likely, there will be many abusive incidents in the context of an abusive relationship, and many opportunities to problem solve about how to support or assist and adult. In reality abuse often occurs in the context of a long-term relationship, often a relationship with someone who is very important to the older adult. There may be a need for multiple reports over time, and likely ongoing documentation of concerns.
6. *The concept of reporting suggests a removal of the older adult’s agency*. The ideal response depends on the unique circumstances but also the adult’s goals, wishes, needs and values. The notion of reporting suggests the solution lies with informing another body. Sometimes it is very important to report abuse. But deciding what to do is a very complex exercise that should involve the older person who is being harmed as much as possible. Victims of abuse often see much of their personal power and agency removed through the abuse relationship dynamic. We should be careful that our responses to abuse do not further undermine a victim’s power.

Additional Reading

CCEL, Elder Abuse and Neglect: What Volunteers need to Know, BC Workshop, online: <http://www.bcli.org/project/elder-abuse-and-neglect-what-volunteers-need-know>

### Additional Research

Many organizations have created tools to guide elder abuse response in different practice sectors. Find out if any tools exist for your practice sector.

Some examples include:

Canadian Association of Occupational Therapists: <http://www.caot.ca/default.asp?pageid=3926>

Dental Hygienists: <http://www.cdha.ca/cdha/Education/Online_Courses/Elder_Abuse/CDHA/Education/Courses/Elder_Abuse.aspx?hkey=840b6b49-fa7a-4a58-b750-66a5b7c4e15e>

Nurses: Registered Nurses Association of Ontario: <http://rnao.ca/bpg/guidelines/abuse-and-neglect-older-adults>

1. Government of Saskatchewan, *Steering Committee on the Abuse of Vulnerable Adults Report* (Saskatchewan, 1997) at 2, online: <http://www.justice.gov.sk.ca/vasc>; Conseil des aînés, online: <http://www.conseil-des-aines.qc.ca/>; Nova Scotia Department of Seniors, *Strategy for Positive Aging in Nova Scotia* (Halifax: Communication Nova Scotia, 2005), online: <https://www.gov.ns.ca/seniors/positiveaging.asp> [Positive Aging Strategy]; U.K. Department of Health, *Safeguarding adults: a consultation on the review of the ‘No Secrets’ guidance* (2008), online: <http://www.dh.gov.uk/en/Consultations/Closedconsultations/DH\_089098> [Consultation]. [↑](#footnote-ref-1)
2. *Adult Guardianship Act*, R.S.B.C. 1996, c. 6, s.1. [↑](#footnote-ref-2)
3. Advocare, “Abuse Prevention” (2005) online: <http://www.advocare.org.au/app.php>. Advocare is an independent advocacy agency operating in Western Australia. [↑](#footnote-ref-3)
4. Seniors Secretariat, “About Elder Abuse”, online: http://www.gov.ns.ca/scs/elderabuse.asp. [↑](#footnote-ref-4)
5. The U.S. Department of Health and Human Services uses the same definition. See Department of Health and Human Services, “About HHS”, http://www.hhs.gov/about/ [↑](#footnote-ref-5)
6. Joanne Preston & Judith Wahl, “Abuse Education, Prevention and Response: A Community Training Manual for those who want to address the Issue of the Abuse of Older Adults in their Community” Advocacy Centre for the Elderly (December 2002), online: <http://www.advocacycentreelderly.org/elder/pubs.htm> [↑](#footnote-ref-6)
7. *Ibid*. [↑](#footnote-ref-7)
8. Yukon Department of Health and Social Services, Seniors, Seniors and Elder Abuse, “What is Abuse of Older Adults?” online: <http://www.hss.gov.yk.ca/programs/social\_services/seniors/elder\_abuse/>. [↑](#footnote-ref-8)
9. Illinois Department on Aging*.*, “What is Elder Abuse?”, online: <http://www.cbrx.il.gov/aging/1abuselegal/abuse\_what-is.htm>. [↑](#footnote-ref-9)
10. *Criminal Code*, R.S.C. 1985, c. C-46. [↑](#footnote-ref-10)
11. *Family Abuse Intervention Act*, S.Nu 2006, c. 18, s. 2(6). [↑](#footnote-ref-11)
12. *Ibid*., s. 1. [↑](#footnote-ref-12)
13. *Toronto Declaration on the Global Prevention of Elder Abuse*. 2002. online:<<http://www.who.int/ageing/projects/elder_abuse/en/>> or <<http://www.inpea.net/reportsresources/reports.html>> [Toronto Declaration]. [↑](#footnote-ref-13)
14. *Action on Elder Abuse Bulletin*, May-June 1995, No. 11. Cited in *Missing Voices: Views of older persons on elder abuse* WHO and INPEA, Geneva: World Health Organization, 2002 at 3; see also Action on Elder Abuse*,* online: <http://www.elderabuse.org.uk/What%20is%20abuse/what\_is\_abuse%20define.htm>. [↑](#footnote-ref-14)
15. Government of the Australian Capital Territory. *Meeting the Challenge of Elder Mistreatment: A Resource Guide for Home and Community Care Service Providers in the ACT*, Government of Victoria; ONPEA, “What is Elder Abuse?”, online: <<http://www.onpea.org/english/elderabuse/index.html>>. The definitions of the Ontario Seniors’ Secretariat and the Yukon Department of Health and Social Services’ definition incorporate and expand upon this definition. See Ontario Seniors’ Secretariat, online: <<http://www.ontario.ca/en/your_government/009886>> [OSS]; and Yukon Department of Health and Social Services, Seniors, Seniors and Elder Abuse, “What is Abuse of Older Adults?” online: <<http://www.hss.gov.yk.ca/programs/social_services/seniors/elder_abuse/>>. [↑](#footnote-ref-15)
16. Government of Canada, *Defining and Measuring Elder Abuse and Neglect* (2012), Human Resources and Skills Development Canada and the National Initiative for the Care of the Elderly, online: <http://www.cnpea.ca/CNPEA\_DMEA\_Overview%20Dec20\_Lynn.pdf> at 16. [↑](#footnote-ref-16)
17. Neighbours, Friends and Families, *It’s Not Right! Neighbours, Friends and Families for Older Adults*, (Ottawa: Government of Canada, 2010) online: <neighboursfriendsandfamilies.ca/about-us/its-not-right.html> (emphasis in the original) [Neighbours, Friends and Families]. This definition was recently adopted in an educational tool developed by the Nova Scotia Government: Nova Scotia Department of Seniors, *Understanding Senior Abuse: A Toolkit for Community Champions* (Halifax: Communications Nova Scotia, 2012) at 18. [↑](#footnote-ref-17)
18. *Adult Guardianship Act*, RSBC 1996, c 3, s. 46.1 (“AGA”). [↑](#footnote-ref-18)
19. Designated Agencies Regulation, B.C. Reg. 19/2002. [↑](#footnote-ref-19)
20. *AGA,* *supra* note 18, s. 47(3). [↑](#footnote-ref-20)
21. *Ibid.*, s. 48. [↑](#footnote-ref-21)
22. *Ibid.*, s. 49. [↑](#footnote-ref-22)
23. *Ibid*., s. 50. [↑](#footnote-ref-23)
24. *Ibid.* s. 51. [↑](#footnote-ref-24)
25. *Ibid.* s. 46(4). [↑](#footnote-ref-25)
26. *Ibid.* s. 46(2) and (3). [↑](#footnote-ref-26)
27. *Public Guardian and Trustee Act*, RSBC 1996, c 383, s. 17(2). [↑](#footnote-ref-27)
28. See P*atients Property Act*, RSBC 1996, c 349 and *Adult Guardianship Act* Part 2.1 Statutory Property Guardians (in force December 1, 2014). [↑](#footnote-ref-28)
29. *Community Care and Assisted Living Act*, SBC 2002, c 75, s. 7 & associated Schedule. [↑](#footnote-ref-29)
30. *Representation Agreement Act*, RSBC 1996, c 405, s. 8. [↑](#footnote-ref-30)
31. *Ibid*. s. 10. [↑](#footnote-ref-31)
32. *Ibid*. s. 12. [↑](#footnote-ref-32)
33. *Ibid*. s. 30. [↑](#footnote-ref-33)
34. *Power of Attorney Act*, RSBC 1996, c 370, s. 19(1). [↑](#footnote-ref-34)
35. *Ibid*. s. 13; note, this applies to enduring powers of attorney. [↑](#footnote-ref-35)
36. *Ibid.* s. 19 (3) and (4). [↑](#footnote-ref-36)
37. *Ibid*. s. 34. [↑](#footnote-ref-37)
38. BC Regulation #25/2014 [↑](#footnote-ref-38)
39. *Ibid*. at s. 32*.* [↑](#footnote-ref-39)
40. Joint Working Committee on Dependent Adults (B.C.), “*How Can We Help? A New Look at Self-Determination, Interdependence, Substitute Decision-Making, and Guardianship in B.C*” (May 1992) Victoria: British Columbia Interministry Committee on Issues Affecting Dependent Adults. [↑](#footnote-ref-40)
41. *Ibid*. at p. 2. [↑](#footnote-ref-41)
42. *Ibid*. [↑](#footnote-ref-42)
43. *Ibid*. at p. 3. [↑](#footnote-ref-43)
44. Canadian Centre for Elder Law, “Financial Abuse of Seniors: An Overview of Key Legal Issues and Concepts” at 9, online: Canadian Centre for Elder Law < <http://www.bcli.org/project/financial-abuse-seniors> >. [↑](#footnote-ref-44)
45. *Ibid*. [↑](#footnote-ref-45)
46. Health Care (Consent) and Care Facility (Admission) Act, RSBC 1996, c 181, s. 9. [↑](#footnote-ref-46)
47. *Ibid*. s. 16(1). [↑](#footnote-ref-47)
48. *Ibid*. s. 16(2). [↑](#footnote-ref-48)
49. *Ibid*. s. 16(3). [↑](#footnote-ref-49)
50. See BC Adult Abuse and Neglect Prevention Collaborative, Provincial Strategy Document: Vulnerability and Capability Issues in BC (2009), online: .<http://www.bcli.org/project/vanguard> for additional reading on this topic. [↑](#footnote-ref-50)
51. “Understanding the Lived Experiences of Supported Decision-Making in Canada” at note 1, at 18. [↑](#footnote-ref-51)
52. Office of the Public Advocate, What is Supported Decision-making? Online <http://www.opa.sa.gov.au/resources/supported_decision_making/what_is_supported_decision_making> [↑](#footnote-ref-52)
53. *Representation Agreement Act*, R.S.B.C. 1996, c. 405, s. 13. [↑](#footnote-ref-53)
54. *Ibid*. s. 8(2). [↑](#footnote-ref-54)
55. *Ibid*. s. 5(1). [↑](#footnote-ref-55)
56. *Ibid*. s. 16(1). [↑](#footnote-ref-56)
57. *Ibid*. s. 7. [↑](#footnote-ref-57)
58. *Ibid*. s. 7(2.1). [↑](#footnote-ref-58)
59. *Ibid.* s. 20. [↑](#footnote-ref-59)
60. *Ibid*. s. 30. [↑](#footnote-ref-60)
61. *Personal Information and Protection of Electronic Documents Act*, [PIPEDA] S.C. 2000, c. 5, s. 30(1), s. 2(1) [↑](#footnote-ref-61)
62. *PIPEDA*, s. 30(1). [↑](#footnote-ref-62)
63. *PIPEDA,* s. 30(2). [↑](#footnote-ref-63)
64. *Ibid*. p. 11. [↑](#footnote-ref-64)
65. *Adult Protection Act*, RSNS 1989, c 2, s 17. [↑](#footnote-ref-65)
66. Designated Agencies Regulation, B.C. Reg. 19/2002. [↑](#footnote-ref-66)