

Role of Decision Supports in Elder Abuse Prevention and Recovery

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Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems getting on the webinar? Send an e-mail to NCLER@acl.hhs.gov.
- Written materials and a recording will be available at NCLER.acl.gov. See also the chat box for this web address.

About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.

About ABA COLA

The ABA Commission on Law and Aging is a collaborative and interdisciplinary leader of the American Bar Association's work to strengthen and secure the legal rights, dignity, autonomy, quality of life, and quality of care of aging persons.

The Commission accomplishes its work through research, policy development, advocacy, education, training, and through assistance to lawyers, bar associations, and other groups working on issues of aging.

Participants Will Learn To:

- Describe person-centered decision supports.
- List two or more tools to use to create oversight and accountability.
- Differentiate between the circumstances and acts of abuse, neglect, and exploitation.
- Describe ways to help a person develop trusted supporters.

What is Supported Decision Making?

- Supported decision making is the process by which an adult selects trusted supporters to help them as needed, to:
 - understand issues, options, risks, and consequences
 - empower the person to make choices
 - assist as asked and needed to carry out those decisions
- Supported Decision Making is focused on the process of helping the person understand and empowering them to make choices

Supported Decision Making (SDM)

- SDM may be informal or formal
 - Some people negotiate and sign written agreements or contracts
 - Some want support without legal formalities
 - Legal empowerment of supporters is a bigger issue if the person appears unable to make choices or has a progressive illness
- It is only SDM if the person selects the supporters and makes the choices

Poll #1

- Have you helped someone with supported decision making?
 - A. Yes
 - B. No
 - C. I need to know more to do this

What are Decision Supports?

- Decision supports facilitate or accommodate understanding and decision making and support autonomy.
 - Supported Decision Making
 - Communication accommodations
 - Physical accommodations
 - Services such as transportation or delivery
 - Technological supports
 - Financial Automation
 - Legal supports
- * We will talk about some of these in more detail later

Abuse, Neglect, and Exploitation

- One in ten older adults experience abuse each year
- Abuse comes in many forms:
 - Physical abuse
 - Emotional abuse
 - Sexual abuse
 - Caregiver neglect
 - Exploitation
- More information: [NCLER Elder Justice Toolkit](#)

Causes of Abuse

- Abuse is not fully caused nor stopped by the presence or lack of legal and support options
 - Abuse can occur when someone has not engaged in advance planning at all, and it can also occur when someone has done significant planning, such as preparing a power of attorney, appointing a trustee, opening a joint account, or has a guardian, conservator, or other fiduciary in place.
- Abusers may perpetrate abuse despite the plans in place
- In some cases, the person trusted to help commits acts of abuse
- The act of abuse is not a result of the tools, formal or informal, or the support network in place—abuse happens because someone commits an act of abuse
- No legal tool is a guarantee of safety, and no tool will always result in abuse

Poll #2

- Have you helped a person who has experienced acts of abuse?
 - A. Yes
 - B. No

Reducing Risks

- Careful legal planning
 - Careful selection of advisors, agents, supporters
 - Requiring accountability
 - Limiting powers or authority
 - Monitoring for undue influence
- Requiring oversight
 - Oversight and accountability should be built into all forms of support

Poll #3

- Have you seen a Power of Attorney that limited the agent's authority to make gifts?
 - A. Yes
 - B. No
 - C. I need to know more

Self-Neglect

- Self-Neglect is included in definitions of abuse to empower APS to respond
 - About half of reports received by APS are for self-neglect
- Planning could prevent some self-neglect
- The solutions to self-neglect are decision supports and social services, as long as the person has capacity
- Learn More: [NCLER Legal Basics—Self Neglect](#)

Decision Supports and Abuse

- Abuse happens when Decision Supports are being used
- Not because of the Decision Supports, but because someone commits acts of abuse, or fails to act as expected
- Decision supports, with a team of supporters, can provide critical oversight and accountability to reduce risk
- Supporters should be on alert for abuse

Supports for a Person Who Has Experienced Abuse

- Ask and listen to how the person is feeling
- Validate the person's feelings
- As needed, explain what has happened and how it was maltreatment
- Offer suggestions of ways to reduce future risks
- Offer suggestions of ways to remediate losses
- Ask the person what they would like to do and how you can help

Poll #4

- Ronni was exploited after being pressured to sign documents she didn't understand. When you ask, Ronni is reluctant to sign your representation agreement. You should:
 - A. Ask and listen to the reasons Ronni is fearful of signing
 - B. Acknowledge that Ronni is fearful for a valid reason
 - C. Document the reason the representation agreement is currently unsigned
 - D. All of the above

The Hardest Step

- If the adult understands the mistreatment, respect the person's choices – the person may wish to maintain contact with the person who hurt them.
- Isolation over the objection of the person may be a form of abuse.

Possible Interventions & Remediation (1 of 2)

- For physical or sexual abuse, facilitate medical care.
- Help the person obtain counseling and emotional supports.
- Suggest reporting to APS, law enforcement, or regulatory agencies, when appropriate.
- If you are a mandatory reporter, explain why you are required to report, and offer to support the person through the follow up.
- If the person has been isolated, offer to assist and facilitate in reestablishing social contacts and networks.

Possible Interventions & Remediation (2 of 2)

- For exploitation:
 - Offer options for recovery of money or property if possible.
 - Suggest ways to eliminate or limit the abuser's access to money or property.
 - Offer help with changing banking and financial arrangements as needed.
- For caregiver-neglect, or self-neglect, offer support with obtaining goods and services.

Communications Accommodations

- Hearing
 - Ask how to help
 - Amplification
 - Hearing appliances
 - Transcription / sign language
- Vision
 - Ask
 - Lighting
 - Larger type

Tablet Computers





















Letter Boards



Chat Boards

← QUICK CHAT VB 🔒

 yes	 no	 I can do it alone	 I want support	 Mom Decides	 Talk to Advisors
 Schools & Colleges	 Write Check	 Donating Organs	 Withdraw Money	 Buying & Selling	 Taxes
 Hiring & Firing	 Driving	 Choosing My Home	 Cooking	 Education	 Brush My Teeth

Differences in Communication

- Should not be mistaken for lack of ability to understand and make choices

Money (1 of 2)

- Direct Deposit
- Automatic Payment
- Support setup
- If agreed, provide oversight
- “Read-only” access to online financial accounts
- Shared email on notices
- Designate notice on late payments
- Pre-designate Rep Payee

Poll #5

- Have you set up automatic payments for bills before?
 - A. Yes
 - B. No
 - C. I never thought about it

Money (2 of 2)

- Spending Cash
- Debit or Credit cards with agreed limits on:
 - Transaction
 - Daily
 - Weekly
 - Monthly
- Limited merchant codes
 - Agreed limits on where the card can be used
 - Specialized providers may be needed

Medical Care and Monitoring

- Supporters can help facilitate medical care
- Virtual consultations
- Telemedicine
- Wearable health monitoring
 - Falls detectors
 - Emergency alert systems
- All should be done with understanding and consent
- Honor wishes regarding in-person meetings
 - Communications and social contact can be important

GPS Monitoring

- Persons who have difficulty with direction finding
- Persons who are at high risk of health crisis
- Built into smart phones, smart watches, a wide array of wearables
 - Amazingly accurate
- Seek understanding and consent
- The goal needs to be balancing autonomy with monitoring
- If the person wants to be able to turn off, or not carry, they should be able to

Remote Video Monitoring

- The technology has grown leaps and bounds
- Privacy and consent are the primary concern
- Laws and regulations on consent are state specific
 - Inpatient and Residential settings may have additional limitations
- Understanding and consent is essential
 - Consent from others in the space
- Privacy is a core concern

Delivery Services

- Shopping and delivery services empower autonomy and independence
- Expanded service
 - Fresh foods in rural areas are not as common
- Nearly everything can be ordered
- Automatic Replenishment
- Need understanding and consent
- To the extent possible, honor desires to get out of the house and shop

Transportation

- One of the biggest challenges
- Most transportation assistance is provided by family and friends
- Don't assume the person can't drive
 - Occupational Therapists and other experts can assess accommodations and risks
- Ride share and taxi apps eliminate the need for in-person payment

Building a Support Network

- The person must select and trust the supporters
- The supporters must be able to work together and collaborate
- The supporters must honor the choices of the person

Generate a List

- Family
- Friends
- Neighbors
- Trusted service providers
- Trusted professionals
- Others the person frequently interacts with
- Think inside and outside the box

Supporters Change

- Needs of the person change
- People come and go
- The team needs to evolve, change, and grow, just as the individual's abilities, needs, and goals change

When There Seems to Be No One

- Look again
- Look beyond the normal concept of family and friends
- Is there anyone the person has:
 - Regular contact with
 - The person trusts
 - The person would turn to
- Distant family
 - Ask why
 - Negative history, honor wish to not have contact

Professionals as Supporters

- When a client hires a lawyer, the client is hiring a supporter
- Social workers, nurse care managers, and professional money managers can all be successful supporters, if selected and trusted by the person
- If the person can not pay, look to community or government services
- The person must select and trust
- Everyone must be committed to person-centered and person-driven decision making

Conclusions

- Decision supports are not the cause of and not the cure for abuse:
 - Abuse happens because someone commits bad acts.
 - The perpetrator of abuse can be anyone.
- The role of the supporter when abuse has occurred includes helping the person understand what has happened and supporting care & remediation.
- Technical supports are increasingly available to facilitate support, and empower autonomy, and many provide options for oversight and accountability.
- No support or legal intervention is a guarantee of safety, but many tools can be used to reduce risk.
- Help people develop trusted support networks.

Questions?

Elder Justice Toolkit

NATIONAL
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Elder Justice Toolkit

Practice-oriented, national online resource with information on pursuing civil legal remedies in elder abuse cases, practice tips, and sample documents for attorneys.

Contribute to the Toolkit! Customize a state-specific financial exploitation guide, or share your documents, letters, and pleadings at ConsultNCLER@acl.hhs.gov.

ncler.acl.gov



<https://ncler.acl.gov/ElderJustice-Toolkit/About-Elder-Justice-Toolkit.aspx>

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Case Consultations

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at ConsultNCLER@acl.hhs.gov.