What do you do if you suspect someone is being abused?

Adult Protective Services Guide for Elder Adults at Risk and Adults at Risk

Wisconsin Department of Health Services
Division of Public Health
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Introduction

In Wisconsin and across the nation, adult protective services (APS) agencies play a vital role in combatting elder abuse and abuse of younger adults with disabilities. APS is often the first responder when abuse is suspected. Agencies receive and investigate reports of abuse, neglect, self-neglect, and financial exploitation. Frontline APS staff work closely with a variety of partners, such as law enforcement agencies, elder abuse prosecutors, long-term care ombudsmen, advocates for people with disabilities, managed care organizations, financial institutions, and other state and local government agencies. Together, they promote the safety, independence, and quality of life for adults of all ages who are unable to protect themselves in situations where they may be harmed.

Abuse can happen to anyone, anywhere. It affects men and women of all ages across all races, cultures, religions, and socioeconomic groups. Reduced capacity to care for oneself due to physical and/or cognitive impairments, and the corresponding need to depend on others to provide basic necessities, heightens a person's vulnerability to abuse. Individuals can be harmed by others, either intentionally or unintentionally, or individuals can fail to provide for their own personal needs. Most abuse occurs in the home or somewhere in the community, but it also takes place in health care facilities, such as nursing homes, assisted living communities, or supported independent apartments, many of which are regulated by the Division of Quality Assurance (DQA) in the Wisconsin Department of Health Services (DHS).

This guide will provide you with information and resources about how to protect individuals at risk through awareness, appropriate identification, and reporting of abuse. It will define "individuals at risk"; discuss common types of abuse, including

what to look for; and provide information about who to call and when.

Your role in helping keep an individual safe may be to report suspected abuse by calling the appropriate county agency or law enforcement. Remember, you do not need to be certain that abuse is occurring or be able to prove it. That is the job of other professionals, who will respond to and investigate what you suspect. A primary goal of APS investigations is to determine whether abuse has occurred.

Abuse can have devastating and even life-threatening consequences. The term "abuse," as used in this guide, means physical, emotional, and sexual abuse, financial exploitation, neglect, and self-neglect. "Treatment without consent" and "unreasonable confinement or restraint" are two other specific types of abuse defined by Wisconsin law. They are briefly outlined in this guide.

Do not be surprised if an individual does not want you to report that you suspect they are being abused. Individuals who have the ability to make decisions can exercise their right to self-determination. This means that they have the right to make decisions about their safety and living conditions, including choosing to accept or decline assistance or services. An individual who is being hurt may be ashamed or embarrassed to admit what is happening, especially when the alleged abuser is a family member or someone else they trust. Some may not identify the behavior as abusive, but rather just how the individual and the alleged abuser have always lived or talked to each other. Others may recognize the behavior as abusive but may minimize its importance because they do not want to get the alleged abuser in trouble. For still others, if the alleged abuser is providing care and is removed from the home or arrested, an individual may fear ending up without needed care

or being forced to move from their home into an unfamiliar or unwanted living environment.

You are strongly encouraged to make a report of suspected abuse if an individual lacks the ability to decide whether they are in need of help. Determining whether an individual has decision-making ability depends upon a variety of factors and often will require a cognitive assessment. When the decision-making ability of an individual is in question, you, as a concerned family member, friend, or other person who suspects abuse, can make a report to the appropriate agency, and explain that you have a concern about the individual's ability to make decisions.

When an individual who clearly has the ability to make decisions does not want you to report suspected abuse, you can try to obtain their

You Can Still Help—Even When They Say "No"

- Educate the individual about the pros and cons of reporting suspected abuse, protections available against retaliation by the alleged abuser, and other resources for needed assistance and support.
- Maintain contact and stay as connected as possible to the individual.
- Continue to talk to the individual privately about your concerns.
- Encourage the individual to connect with others.
- Encourage the individual to get out to socialize if they are able; help the individual to arrange transportation if needed.
- Encourage the individual to set up in-home services, such as home health, meals on wheels, or cleaning services, so that they will have more outside contact and support.
- Encourage contact with domestic abuse or sexual assault providers, if applicable; help arrange for someone to accompany the individual to the first appointment.
- Talk to the individual about services that are available for safety planning; counseling; socialization; benefit specialist programs; in-home care and assistance; and transportation.
- Reassure the individual that what they are experiencing is not their fault.

voluntary cooperation so that you can make the report. If your efforts are not successful, then, as a general rule, a report should not be made out of respect for the individual's right to self-determination. However, there are still ways you can help. [See box on page 4.]

You should report suspected abuse against an individual's wishes when you believe the situation is so hazardous or so harmful, and further risk is so imminent, that it overrides the individual's right to live life as they so choose. You should also report suspected abuse against an individual's wishes whenever the alleged abuser is an employee or contractor of a DQA-regulated provider. [See section about Reporting on page 18.]

Individuals at Risk and the County System for Reporting Abuse

In Wisconsin, APS programs are implemented at the county level and by several Native American tribes. Each county in Wisconsin is required to identify a lead "adult-at-risk agency" for adults ages 18–59 who have a physical or behavioral health condition that substantially impairs their ability to care for their own needs, and an "elder-adult-at-risk agency" for adults ages 60 and over. These agencies take primary responsibility for receiving and responding to allegations of abuse. "Elder adults at risk" and "adults at risk" are referred to collectively as "individuals at risk." Although a county is permitted to put these functions in different places, most combine them within the same agency. Each county is also required to designate an adult protective services (APS) agency responsible for providing protective services and protective placement to all individuals at risk, regardless of age. A distinctive feature of APS is the use of legal action when required. The elder-adult-at-risk (EAAR),

adult-at-risk (AAR), and APS agencies are often referred to as the "county APS unit."

Keeping individuals at risk safe is the responsibility of these agencies. It is their job to receive and respond to reports of abuse; to organize, plan, and deliver or make referrals for services; and to determine whether services or placement can be provided without consent of the individual at risk, either with consent of a guardian or by court order. A primary goal of APS investigations is to determine whether abuse has occurred.

Each county has a publicized telephone number that people can call to report suspected abuse. Contact information about the reporting agencies in each county and Wisconsin tribe for adults at risk and elder adults at risk can be found on the Department of Health Services Adult Protective Services website or in the separate agency listing document, P-00328A. Cases of alleged elder abuse may also be reported through the toll-free Elder Abuse Help Line at 833-586-0107.

Defining Abuse

Abuse refers to intentional, reckless, or neglectful acts or omissions by a caregiver, family member, or other trusted person that result in, or may result in, harm of an individual at risk. It is important to distinguish between unintentional and intentional harm. Unintentional harm occurs in ways that are accidental, such as falls, medication errors, or accidental burns or cuts. However, if the injuries suffered in an "accident" do not logically fit the explanation, the harm may be intentional. Unintentional harm can also be the result of actions by ill-

equipped caregivers or family members, or behaviors by the individual at risk.

When others intentionally harm individuals at risk, it is often an issue of power and control. The harm can result from the abuser's belief that they are entitled to control the individual's behavior or financially exploit them. It can also result from greed and opportunity. The abuser's actions are purposeful and harm is inflicted so that the abuser can get what they want from the individual. Abuse is generally not an isolated event, but a pattern of behavior. The abuser exerts or tries to exert power and control, not only over the individual at risk, but also over others with whom the individual has either a personal or professional relationship. You could be one of those "others" the abuser will attempt to manipulate. Individuals at risk can also fail to provide for their own personal needs, thereby jeopardizing their own physical or mental health. When this happens, it is called self-neglect.

Some signs of abuse are easily recognizable, while others are more subtle. You may have the opportunity to observe signs of abuse related to the individual; a caregiver or family member; and/or the individual's living environment. Signs of abuse of the individual may also be directed at you. For example, your access to the individual may be limited or you may be allowed to visit the individual only in the presence of the abuser. You may not be allowed into the individual's home, or you may not be allowed to talk by phone to the individual.

Types of Abuse and What to Look For

In many cases, the actions or signs you observe may lead you to suspect that a certain type of abuse is being inflicted upon the individual. This section explains physical, emotional, and sexual abuse; financial exploitation; neglect; self-neglect; treatment without consent; and unreasonable confinement or

restraint. For each type of abuse, a list of signs to look for is also included. Abusers may not use all of these tactics, and they may use one tactic more often than others. Any combination of tactics may be used to maintain power and control. For example, financial exploitation and neglect are often used together, and what starts out as emotional abuse may later be coupled with physical abuse. If you observe the existence of any one or more of these signs of abuse, it does not necessarily mean the individual has been or is being abused. However, recognizing these "red flags" may help you protect the individual and keep them safe.

Physical Abuse

Physical abuse is an intentional act that results in physical pain, injury, or impairment. Abusers may inflict bruises, welts, lacerations, punctures, fractures, burns, scratches, or other injuries. Physical abuse includes not only physical assaults, such as hitting, strangling, kicking, shoving, and burning, but also the inappropriate use of drugs, physical restraints, and confinement. Signs of physical abuse include, but are not limited to:

- Bruises—especially the presence of both old and new bruises—including bruises in the shape of an object such as a belt or finger, bruises on the upper arms from holding or shaking, clustered bruises on the torso from repeated shaking, or black eyes.
- Burns, often in an unusual location or in a shape similar to an object, such as an iron or cigarette, or like when immersed in scalding water.
- Broken bones, skull fractures, sprains, dislocations, or internal injuries or bleeding.

- Open wounds, cuts, punctures, or injuries that have not been cared for properly.
- Repeated, unexplained injuries, or injuries that do not appear consistent with the explanation given for them.
- Broken eyeglasses, hearing aids, or other devices.
- Denied or controlled access to communication or mobility aids (for example, communication tools placed out of reach or battery packs removed from wheelchairs).
- Signs of confinement, such as being locked in a room, or restraint, such as pressure marks or rope burns from being tied to furniture.
- Frequent use of the emergency room or hospital care.
- "Doctor hopping," so that no one has an accurate or complete record of injuries.

Emotional Abuse

Emotional abuse consists of language or behavior intended to intimidate, humiliate, ridicule, threaten, frighten, harass, coerce, blame, or otherwise cause emotional pain or distress. Signs that an individual may be experiencing emotional abuse include, but are not limited to:

- Being passive, helpless, withdrawn, non-responsive, or non-communicative.
- Being anxious, agitated, or scared of someone or something.
- Worrying excessively that a caregiver or family member will find out about their conversation with you.
- Blaming themselves for the situation, or for the behavior of caregivers or family members.

Signs that a caregiver or family member is emotionally abusing an individual include, but are not limited to:

- Yelling, threatening, belittling, or calling the individual names.
- Speaking for the individual or appearing to feel entitled to make all decisions for the individual at medical, financial, or other appointments.
- Denying or causing long wait times for food, medication, personal care, heating or cooling, or transportation for the individual.
- Not following medical recommendations for the individual.
- Trying to control what the individual does or whom they see.
- Denying the individual access to mail.
- Isolating the individual from family members and friends.
- Denying the individual access to communication or mobility aids (for example, "forgetting" to charge a cell phone or leaving a phone out of reach).
- Threatening to place the individual in a nursing home or other facility.
- Threatening to abuse or kill service or companion animals.

Sexual Abuse

Sexual abuse is non-consensual sexual contact of any kind. Sexual contact with an individual incapable of giving consent—including someone who is unconscious or otherwise unable to communicate—is also considered sexual abuse. Sexual abuse includes "hands off" offenses, such as exhibitionism or forcing an individual at risk to watch pornography; "hands on" offenses, such as rape or sodomy; and "harmful genital practices," which involve unreasonable, intrusive, and/or

painful procedures in caring for the genitals or rectal area. For several reasons, individuals with disabilities and developmental disabilities are especially vulnerable to sexual abuse. Signs of sexual abuse include, but are not limited to:

- Bruises around the breasts or genital area.
- Unexplained sexually transmitted diseases or genital infections.
- Unexplained vaginal or anal bleeding, pain, or itching.
- Torn, stained, or bloody underwear.
- Discomfort, pain, or other difficulty when walking or sitting.
- Protection of the genital area when assisted with intimate care, particularly if the alleged abuser is present.
- Disrupted sleep or complaints of bad dreams in which the individual talks of being inappropriately touched.
- Signs of fearfulness or hypervigilance when a particular person enters a room or is generally present.

You may not observe signs of sexual abuse. Bruises, bleeding, and some of the other signs listed above are often covered by clothing. However, an individual may tell you about an incident of being sexually abused. Do not discount what an individual tells you, even if they have a cognitive disability. For individuals who need help with activities of daily living, such as bathing or going to the bathroom, be alert if they mention caregiver practices that seem unusual or needlessly intrusive. If you don’t know whether a caregiver’s practice is appropriate, consult with a nurse or other medical provider, APS worker, ombudsman, or other professional.

Financial Exploitation

Financial exploitation is the illegal or improper use of the funds, assets, or property of an individual. It includes cashing checks without authorization or permission; forging an individual's signature; misusing or stealing money or possessions; coercing or deceiving an individual into signing any document, such as a check, contract, or will; forcing an individual to sell property at less than fair market value; and abusing authority as a guardian or an agent under a power of attorney. An elder adult at risk is more likely to be a victim of financial exploitation than a younger adult at risk because elder individuals tend to have more assets. However, the exploitation of a younger adult at risk with limited assets is equally devastating.

Signs of financial exploitation include, but are not limited to:

- Sudden changes in the individual's bank account or banking practice, including an unexplained withdrawal of large sums of money by a person accompanying the individual.
- Additional names appearing on the individual's bank signature card.
- Unauthorized withdrawal of funds using the individual's ATM card.
- Unexplained disappearance of the individual's funds or valuable possessions.
- Sudden transfer of the individual's assets to a caregiver or family member.
- Sudden spending of money by a caregiver or family member on something they cannot afford, such as a car or an expensive vacation.
- Unexplained changes in the individual's powers of attorney, will, or other legal documents.
- Forging of the individual's signature on checks or other financial or legal documents.

- Unexplained charges or overpayment for goods or services.
- More concern by a caregiver or family member about the cost of the individual's care rather than the quality of care.
- Substandard care being provided, bills unpaid, or utilities shut off, even though the individual has adequate resources.
- Substantial failure or neglect of a fiscal agent, such as a guardian of the estate or an agent under a financial power of attorney, to fulfill their responsibilities.

Signs of financial exploitation may be observed by family members, friends, surrogate decision-makers (for example, guardians of the estate or agents under a financial power of attorney), and others who are familiar with the individual's financial status, the financial status of alleged abusers, or both. Financial institutions such as banks or credit unions are in the best position to observe many of the signs of financial exploitation and take action to try to prevent financial exploitation from occurring or continuing to occur.

Neglect

Neglect is the refusal or failure to provide an individual with life necessities, such as food, water, shelter, personal hygiene, medicine, physical or mental health care, comfort, personal safety, services, or adequate supervision. It can be intentional or unintentional. Unintentional neglect may result from ignorance or denial that an individual needs as much care as they do. Signs of neglect include, but are not limited to:

- The existence of bedsores, physically unclean or unkempt appearance, and/or soiled clothing or bedding.
- Inadequate or spoiled, rotten, or moldy food in the house.
- Low body weight, physical frailty, weakness, or dehydration.
- Untreated health problems.
- Improper administration or withholding of Medications.

- Lack of needed home medical equipment, such as a walker or bedside commode.
- Finances and bills that are being neglected.
- Unsafe or unclean living conditions that increase the risk of danger or make it difficult to move around.
    - Excessive heat or cold
    - Compromised utilities
    - Fire hazards
    - Fecal or urine smell
    - Insect infestation
    - Animals that are not being cared for
    - Objects, garbage, and/or animals that have accumulated to the point of being unsanitary
- A family member or caregiver that displays an obvious indifference or anger toward the individual or fails to provide needed assistance to the individual.

Self-Neglect

Self-neglect differs from other types of abuse because it does not involve an abuser. Instead, it happens when the individual at risk fails to tend to their own basic needs and personal care, which results in significant danger to the individual's physical or mental health.

Self-neglect can only occur with regard to care for which the individual retains responsibility. For example, an individual may need a caregiver for tasks like cooking and home maintenance but may remain responsible for their personal hygiene. If that individual gets sick due to poor hygiene, it would be a result of

self-neglect. However, if they are malnourished due to a lack of food to eat, it would be neglect by the caregiver.

There are many reasons why a person may be self-neglecting, including medical factors—such as traumatic brain injury, mental illness, or dementia—as well as social or cultural beliefs. Generally, a person who is self-neglecting does so because they do not fully understand the consequences of their decisions. If a mentally competent person makes a conscious and voluntary decision to engage in acts that threaten their health and safety, it is not usually considered self-neglect.

It is important to fully assess the reasons for self-neglect and offer appropriate care and treatment options. APS staff or another trained professional should perform this assessment. Many of the signs of neglect by a caregiver can also be signs of self-neglect. Knowing how to distinguish between them is crucial for determining an appropriate solution.

Treatment Without Consent

Treatment without consent includes:

- Giving medication to an individual who has not provided informed consent.
- Performing surgical or experimental procedures on an individual who has not provided informed consent.

Informed consent means that the individual who gives consent must fully understand the consequences and risks of treatment.

In some cases, legal authority exists for treatment without consent. It becomes abuse when the person performing treatment knows that they do not have legal authority to do it.

Unreasonable Confinement or Restraint

Unreasonable confinement or restraint includes:

- The intentional and unreasonable confinement of an individual in a locked room.
- The involuntary separation of an individual from his or her living area.
- The use of physical restraining devices on an individual.
- The provision of unnecessary or excessive medication to an individual.

These methods or devices may be used in state-regulated facilities if they are used according to state and federal laws.

Anyone Can Be an Abuser

Abusers can be caregivers in positions of trust and authority, personal acquaintances, other non-family members, or opportunistic strangers who commit crimes against individuals at risk. For example, specialized transit drivers who transport young adults may abuse them. However, abusers are most likely to be spouses or intimate partners, adult children, or other family members.

Abusers will try to hide evidence of their abuse. They may isolate the individual at risk from others or refuse to accept help or services from outside care providers or agencies so that the abuse is not discovered.

Abusers may try to justify or minimize abuse and deny they are abusive. They may say things like, “She’s just too difficult to care for,” or “He abused me as a child,” to blame the victim. They may also try to minimize the abuse by saying the victim “bruises easily” or that injuries are the incidental result of providing care.

Certain risk factors indicate there is an increased probability or likelihood that a caregiver will be abusive. The most significant risk factor for caregiver abuse is when a caregiver is financially dependent on the individual for whom they are caring. Other risk factors include caregivers who:

- Have mental, emotional, or behavioral difficulties.
- Have an alcohol or substance abuse problem.
- Lack understanding of the individual's medical condition.
- Are reluctant or inexperienced caregivers.
- Are experiencing or have experienced marital or family conflict.

Remember that abusers choose when, where, and how the abuse will occur. They are likely to try to hide or minimize evidence of their abuse. Therefore, it is important to take individuals seriously when they tell you about abusive behavior, even if the behavior may not sound like something the abuser would do or you do not have any evidence that supports what the individual describes. APS staff are well trained to investigate these types of allegations. They will take your report seriously and investigate the allegations with professionalism and care.

Caregiver Stress

Caregiver stress was once thought to be a significant contributing factor to abuse. However, recent evidence has shown that caregiver stress as a cause of abuse is not as prevalent as previously believed. While caregiving is stressful, especially for family or other non-paid caregivers who may be providing care over a period of years or even decades, most caregivers do not abuse the individuals for whom they are caring.

Still, supporting caregivers remains a key to preventing abuse. Caregivers in need of support or help making decisions should contact their local aging and disability resource center or visit WisconsinCaregiver.org to learn more about programs that can help.

Reporting

Voluntary Reporting

For almost all situations involving abuse of individuals at risk, Wisconsin relies on voluntary reporting. Once the individual's wishes for reporting are known, voluntary reporters, such as family members, friends, or neighbors, may report possible abuse if they are aware of facts or circumstances that would lead a reasonable person to suspect abuse has occurred. The identity of a reporter is confidential and protected by law. Reports can also be made anonymously.

If the suspected abuse is an emergency—a life-threatening situation or one involving immediate danger—call the police or 911 immediately. Otherwise, report suspected abuse by calling the appropriate county agency. If the individual is a tribal member, contact the tribe, along with the county APS agency that collaborates with the tribe on APS matters. Trust your instinct if something doesn't seem right. When in doubt, report!

Information about how to report suspected abuse to county and tribal EAAR and AAR agencies is located on the Department of Health Services Adult Protective Services website or in the separate agency listing document, P-00328A. Cases of alleged elder abuse may also be reported through the toll-free Elder Abuse Help Line at 833-586-0107.

Limited Required Reporting by Professionals

There are certain professionals who are required by law to report suspected abuse. These professionals include:

- Health care providers, as defined in Wis. Stat. § 155.01(7).
- Social workers, professional counselors, or marriage and family therapists certified under Wis. Stat. ch. 457.

- Employees of any entity that is licensed, certified, approved by, or registered with the Department of Health Services (DHS).

These professionals must report suspected abuse if they are seeing the individual in a professional capacity, **and** either of the following occurs:

- The individual requests that the professional make a report.
- The professional has reasonable cause to believe either of the following situations exists:
  - The individual is at imminent risk of serious bodily harm, death, sexual assault, or significant property loss and is unable to make an informed judgment about whether to report the risk.
  - An individual other than the person being seen (for example, another person with the same caregiver) is at risk of serious bodily harm, death, sexual assault, or significant property loss.

The only time professionals are not required to report suspected abuse is if they determine that reporting is not in the best interest of the individual, and the reasons for that determination are well documented in the individual's file.

Suspected Abuse in Facilities

You may suspect or receive a complaint that an individual is being abused in a residential health care facility or program. Nursing homes, community-based residential facilities, adult family homes, and adult day care centers are just a few of the facilities and programs that are regulated by the DHS Division of Quality Assurance (DQA). DQA's focus is on whether a facility

or program is in compliance with the laws and regulations that govern a particular provider type.

When DQA receives a report of suspected abuse in a facility, they will triage the report, and the speed of their response will depend upon the situation and provider type. If the case is severe, DQA may go out to the facility soon after receiving the report. Otherwise, the response time may be longer. Because of this triage process, APS is often the first responder when abuse is suspected in a facility. Its job is to ensure the immediate safety, independence, and quality of life for adults who are, or are at risk of, being harmed and are unable to protect themselves.

In most cases, the outcome of a DQA investigation is determined solely by DQA. However, while DQA is responsible for conducting its own investigations into suspected abuse, there are times when the outcome of an investigation will depend on the completion of an investigation by another agency, such as law enforcement.

Reporting Suspected Abuse

Different bureaus and offices in DQA oversee various types of facilities and programs. When suspected abuse occurs in a facility, a report may be made to one or more of the following:

- A bureau in DQA
- The Office of Caregiver Quality (OCQ) in DQA
- The EAAR or AAR agency in the county where the facility is located
- The tribe (if the individual is a tribal member), along with the county APS agency that collaborates with the tribe on APS matters.

To whom a report should be made will depend upon the type of facility, whether the suspected abuser is an employee or contractor of a regulated facility or program, and other circumstances.

Reporting to DQA Bureaus

A report should always be made to the bureau in DQA that regulates the facility or provider in question, such as the Bureau of Nursing Home Resident Care or the Bureau of Assisted Living. Information about these bureaus, including the types of facilities that they regulate, is provided, beginning on page 22.

If the alleged abuser of a facility resident or program participant is someone other than an employee or contractor, the facility or program should also be notified.

Reporting to the Office of Caregiver Quality

A report should also be made to OCQ if it involves any allegation of intentional abuse, neglect, or misappropriation of client property by an employee or contractor of the treatment provider or facility. Any person may report allegations of misconduct by employees and contractors. Such reports may be made anonymously. If there is no employee or contractor involved (for example, the suspected abuser is another resident living in the facility, a family member, a guardian, or a stranger), OCQ does not have jurisdiction, but will promptly refer the matter to a DQA bureau or other partner (for example, Department of Justice, Office of the Inspector General, Department of Safety and Professional Services, or APS).

The best way to report a concern about care by a treatment provider or facility, or to report misconduct by an employee or contractor of a treatment provider or facility, is to submit a Public Misconduct Report (F-00607) to the Division of Quality Assurance. This form will allow you to make a report about all

DQA-regulated facilities as well as providers of care and treatment services in the home and in the community. If you are unable to make a report online, call toll-free to file a complaint at 800-642-6552. Leave a voicemail message and your call will be returned by the next working day.

Reporting to an EAAR or AAR Agency
A report should always be made to the EAAR or AAR agency in the county where the facility is located. Contact information for county agencies is located on the Department of Health Services Adult Protective Services website or in the separate agency listing document, P-00328A.

Reports may also be made to one or more of the following agencies:

- Law enforcement in the county where the facility is located, if the conduct in question might constitute a crime
- The managed care organization in which the individual is enrolled
- The tribe (if the individual is a tribal member), along with the county APS agency that collaborates with the tribe on APS matters.
- The ombudsman (if the individual is age 60+) who covers the facility where the suspected abuse occurred.

Bureaus and Offices Within the Division of Quality Assurance

Bureau of Nursing Home Resident Care

The Bureau of Nursing Home Resident Care regulates nursing homes and facilities serving people with developmental disabilities (FDDs), also known as intermediate care facilities for individuals with intellectual disabilities (ICF/IID).

Bureau of Assisted Living

The Bureau of Assisted Living regulates the following types of facilities:

- Community-based residential facilities
- 3–4 bed adult family homes
- Residential care apartment complexes
- Adult day care centers

The Bureau of Assisted Living does not regulate 1–2 bed adult family homes. Rather, they are generally certified by a managed care organization. Reports of suspected abuse in such facilities should not be made to the Bureau of Assisted Living and the Bureau will not accept them. Reports of suspected abuse in 1–2 bed adult family homes should be made to APS and/or law enforcement in the county where the home is located. Reports should also be made to the MCO or ICA with which the individual is enrolled. If the MCO or ICA is unknown, the DHS Family Care Oversight Team can be contacted at DHSDMSLTC@dhs.wisconsin.gov. The Oversight Team can assist in determining with which MCO or ICA the individual is enrolled so that APS is able to contact the agency.

Bureau of Health Services

The Bureau of Health Services regulates the following providers:

- Hospitals
- Home health agencies
- Hospices
- Ambulatory surgical centers
- End-stage renal disease centers
- Outpatient rehabilitation centers
- Personal care agencies
- Rural health clinics

Office of Caregiver Quality

The Office of Caregiver Quality (OCQ) receives, screens, and investigates claims of intentional abuse or neglect of a client or the misappropriation of a client's property ("misconduct") by one or more employees or contractors of a treatment provider or facility regulated by DQA. Under state and sometimes federal law, regulated providers are required to investigate and report claims of misconduct by their employees or contractors to OCQ, but this does not always happen. These claims should be reported to OCQ; the EAAR or AAR agency and/or law enforcement for the county where the provider or facility is located; and the facility manager, administrator, or program manager. If the employee or contractor involved holds a license from another regulatory agency (for example, a physician, registered nurse, or social worker), OCQ will refer the matter to the Wisconsin Department of Safety and Professional Services. If the individual is a tribal member, also report the claim to the tribe, along with the county APS unit that collaborates with the tribe on APS matters.

APS Roles and Responsibilities

When APS receives a report of suspected abuse, staff may investigate the report in several ways, such as:

- Interviewing the individual at risk, family members, caregivers, and surrogate decision-makers (for example, guardians or agents under powers of attorney).
- Visiting the individual's residence to observe living conditions.
- Reviewing medical and financial records.

Often with the help of other professionals, APS assesses:

- The individual's level of risk, decision-making capacity, potential service needs, funding sources, and support.
- Whether an intervention should be voluntary or involuntary.
- Whether emergency action is warranted.

If there is a need for protective services, APS will work with the individual who was abused, as well as with family, friends, and other professionals, to assist the individual and reduce or eliminate the danger. APS may provide services or refer the individual to other organizations that can provide services. Services typically include medical or behavioral health treatment, personal care, delivered meals, housing, legal or financial assistance, or a referral to the long-term care ombudsman. APS may also make referrals to law enforcement or district attorneys when the harm being inflicted on the individual is a crime, or

Confidentiality of APS

As a general rule, reports of suspected abuse, as well as APS investigations, findings, referrals for services, and other actions, are confidential. They cannot be disclosed to the reporter or other individual or agency unless there is an exception in the law, or a release is obtained from the individual who is the subject of suspected abuse.

they may initiate other appropriate action, such as guardianship and/or protective services and placements.

One of the challenges of APS is to balance protection and safety of the individual with autonomy and "dignity of risk." "Dignity of risk" is based on two premises:

- Every choice a person makes has risks and consequences.
- Some people deliberately choose to live with more risk than others and are willing to accept the consequences of their choices.

The right to make decisions should never be contingent on the quality of decisions, the process by which decisions are made, or how decisions are communicated. Assessing safety can be difficult for APS. For each individual, APS is faced with determining what it means to be safe, who should decide what being safe means, and when the cost of safety outweighs the benefits of self-determination.

Individuals with decision-making capacity can exercise their right to self-determination to make decisions about their safety and living conditions. For most individuals with the ability to make decisions, APS will encourage the individual to voluntarily accept the care and services offered by APS or referrals made by APS to other community services. Voluntary services are preferred over involuntary services because the decision to accept services is made by the individual, rather than imposed upon them. Wherever possible, APS will help the individual remain in their residence or community. An individual with decision-making capacity can refuse assistance or services, contest legal proceedings, and continue to make poor choices, even when it puts their health and safety at risk.

Although county APS units have the authority to seek involuntary, court-ordered protective services, protective placements, and/or guardianships for certain individuals at risk,

legal action is taken only after all other less restrictive options are explored and determined not to be appropriate. When legal action is needed, it means that an evaluation has determined that the individual is no longer capable of making reasonable decisions on their own behalf.

Applicable Laws

Elder Abuse Reporting System

Wisconsin Stat. § 46.90 provides for the establishment of the county elder-adults-at-risk agency with responsibility for receiving and responding to reports of abuse, financial exploitation, neglect, and self-neglect of adults ages 60 or older. The statute specifies the agency's duties, along with requirements for responding to and investigating reports, offering services, making referrals to law enforcement and other agencies, and initiating other appropriate action, such as guardianship or protective services and placements. [See the section about Individuals at Risk and the County System for Reporting Abuse on page 5.]

Adults-at-Risk Reporting System

Wisconsin Stat. § 55.043 provides for the establishment of the county adults-at-risk agency with responsibility for receiving and responding to reports of abuse, financial exploitation, neglect, and self-neglect of adults ages 18–59. The statute specifies the agency's duties along with requirements for responding to and investigating reports, offering services, making referrals to law enforcement and other agencies, and initiating other appropriate action, such as guardianship or protective services and placements. [See the section about Individuals at Risk and the County System for Reporting Abuse on page 5.]

Wisconsin Caregiver Program

The Wisconsin Caregiver Program is a response to the concern about the potential for physical, emotional, and financial abuse of vulnerable citizens by employees and contractors in regulated health care settings. The program applies to all employees and contractors who have access to clients in facilities regulated by the DHS Division of Quality Assurance.

Wisconsin's Caregiver Law requires background and criminal history checks of certain personnel who are responsible for the care and safety of adults residing in regulated health care facilities. The law also requires covered entities to investigate and report incidents of misconduct (intentional abuse, neglect, or misappropriation of property). More details and provisions of the Caregiver Law can be found in Wis. Admin. Code chs. DHS 12 and 13.

Guardianships

Wisconsin Stat. ch. 54 dictates the procedures, standards, and required findings for guardianship of individuals based on a finding of incompetency. A court may appoint a guardian to manage an individual's personal affairs (guardian of the person), financial affairs (guardian of the estate), or both. Guardianships are required to be tailored to the individual's needs and to be as least restrictive as possible to the individual's rights. The court order creating the guardianship must specify the areas of decision-making where the guardian has authority to act and the areas where the individual retains the right to make decisions or is restricted in any way to make decisions. There are certain rights that, even if removed from

the individual, cannot be exercised by the guardian, such as the right to vote. Therefore, guardianships may be limited to certain functions or may cover many or all of the decisions an individual could make.

Even if the court orders a full guardianship, the individual, also known as the ward, still retains certain rights, including the right to access and participate in court hearings, retain legal counsel, access state advocacy agencies (such as the Ombudsmen or Disability Rights Wisconsin), and provide input about support services the individual will receive. The guardian is required to place the least possible restrictions on the individual’s rights while, at the same time, promoting the greatest integration of the individual into their community. In areas of choice such as where to live, with whom to associate, mobility, personal privacy, and sexual expression, the guardian should make diligent efforts to honor what the individual wants while considering the individual’s level of understanding, the level of risk involved, and the need for the individual to develop decision-making skills and have wider experiences.

Protective Services System

According to Wis. Stat. ch. 55, counties are responsible for the reasonable program needs of individuals who are protectively placed or who receive protective services. The APS system provides a mechanism for organizing, planning, and delivering services to protect individuals at risk who have serious and persistent mental illness, degenerative brain disorders (for example, dementia), developmental disabilities, or other similar conditions.

The primary purpose of protective services and protective placements is to keep an individual who is at risk due to a condition that is permanent (or likely to be permanent) safe from harm by providing for long-term care and custody of the individual. A court-ordered protective placement is focused primarily on residential care and custody. A non-institutional alternative is court-ordered protective services, which, when delivered, serve the same purpose as protective placements. Anytime a petition for protective placement is filed, a petition for guardianship must also be filed if the person does not already have a guardian. A petition for protective placement can also be filed on an emergency basis.

Protective services can be voluntary or involuntary, but voluntary services are favored over involuntary ones. Protective services can include things like outreach, counseling and referrals, coordination of services, case management, and diagnostic evaluations.

State Alcohol, Drug Abuse, Developmental Disabilities, and Mental Health Act

Wisconsin Stat. ch. 51 defines the roles of the state and counties in providing mental health services, outlines the procedures for voluntary admissions of adults and children to inpatient facilities, and describes the standards and procedures for civil commitment, community mental health services (including crisis response and stabilization), and the rights of individuals receiving mental health care. The process by which an individual is taken into custody for mental health treatment in an emergency is called an emergency detention.

Policies outlined in the chapter focus on providing a range of services that will enable individuals to receive treatment in the least restrictive environment that is appropriate to their needs. It also focuses on protecting individual rights and liberties and favors voluntary over involuntary treatment. Wisconsin Stat. ch. 51 does not apply to individuals with Alzheimer's disease or other dementias unless they also have one or more of the conditions listed in the chapter.

Individual-at-Risk Restraining Orders

Wisconsin Stat. § 813.123 governs individual-at-risk restraining orders. These restraining orders can be used by or on behalf of adults (ages 18–59) or elder adults (ages 60+) who are at risk of being abused because of a physical or mental condition that impairs their ability to care for themselves. Any person can petition for a restraining order. This means that the individual at risk can file a petition or someone else can file on their behalf. If the individual at risk does not file the petition, the petitioner must provide notice of the petition to the individual, and the court must appoint a guardian ad litem to help the court decide what is best for the individual.

Types of Abuse Covered by Individual-at-Risk Restraining Orders

- Physical abuse
- Emotional abuse
- Sexual abuse
- Unreasonable confinement or restraint
- Financial exploitation
- Neglect
- Stalking
- Harassment
- Mistreatment of an animal
- Medical treatment without consent
- Interference with an abuse investigation

Obtaining a restraining order is a two-step process. First, a petitioner must obtain a temporary restraining order, which

protects the individual at risk until a hearing occurs, usually within seven days of the petition being filed. Second, after a hearing, the court can order an injunction, which can last up to four years, to stop the abuser from harming the individual or engaging in abusive conduct against the individual. Additionally, the court can order or extend the injunction for not more than 10 years if evidence proves there is a substantial risk of homicide or sexual assault.

Resources for Individuals and Families

Board on Aging and Long-Term Care

The Board on Aging and Long-Term Care (BOALTC) advocates for the interests of Wisconsin citizens over the age of 60 who are in need of long-term care supports and services. BOALTC also informs consumers of their rights and educates the public about health care systems and long-term care. In addition, BOALTC operates the Long-Term Care Ombudsman, Volunteer Ombudsman, and Medigap Helpline programs.

Long Term Care Ombudsman Program

The Long Term Care Ombudsman Program provides advocacy services to adults age 60+ who are consumers of Wisconsin long-term care programs. By state and federal law, the Ombudsman Program has authority to contact or be contacted by any person served by a Wisconsin long-term care program (Family Care, Partnership, PACE, or IRIS) or any resident or tenant of a Wisconsin nursing home, community-based residential facility, residential care apartment complex, or adult family home (both 1–2 bed and 3–4 bed adult family homes). While ombudsmen do not investigate alleged abuse, they are often the first to hear about it. They can work with the appropriate parties to ensure that individuals are granted their rights to speedy access to law enforcement, victims' services

and supports, and all aspects of due process. The Long Term Care Ombudsman Program is one of the most effective resources available to its service population.

Contact Information

Board on Aging and Long-Term Care
1402 Pankratz Street, Suite 111
Madison, Wisconsin 53704
Email: BOALTC@wisconsin.gov
Fax: 608-246-7001
Ombudsman Programs: 800-815-0015

Department of Health Services, Division of Quality Assurance

Different bureaus and offices in DQA oversee various types of facilities and programs. More information about each bureau and office in DQA can be found in the section about Bureaus and Offices Within the Division of Quality Assurance, beginning on page 22.

Contact Information

The best way to report a concern about care by a treatment provider or facility, or to report misconduct by an employee or contractor of a treatment provider or facility, is to submit a Public Misconduct Report (F-00607) to the Division of Quality Assurance. This form will allow you to make a report about all DQA-regulated facilities as well as providers of care and treatment services in the home and in the community. If you are unable to make a report online, call toll-free to file a complaint at 800-642-6552. Leave a voicemail message and your call will be returned by the next working day.

Disability Rights Wisconsin

Disability Rights Wisconsin (DRW) is Wisconsin's protection and advocacy system for people with disabilities. DRW is a private non-profit organization that protects the rights of state citizens with disabilities to services and opportunity through individual advocacy and system change.

DRW serves people of all ages, including people with developmental disabilities, people with mental illness, people with physical or sensory disabilities, and people with traumatic brain injury.

DRW houses a federally funded victim advocacy program that provides direct services to individuals with disabilities who experience crime, including abuse, neglect, and financial exploitation, even if the crime has not been reported. The program supports victims and their families to ensure they understand their rights and how to exercise them while working within the criminal and civil justice systems. DRW also houses the Family Care and IRIS Ombudsman Program, which is available to assist people with disabilities age 18–59 in disputes involving Wisconsin's adult long-term care programs, IRIS and Family Care.

Contact Information

Toll-free (statewide): 800-928-8778
Fax (statewide): 833-635-1968

Disability Drug Benefit Helpline (Medicare Part D):
800-926-4862

Madison Office
131 W Wilson Street, Suite 700
Madison, Wisconsin 53703
Phone: 608-267-0214

Milwaukee Office
6737 W Washington Street, Suite 3230
Milwaukee, Wisconsin 53214
Phone: 414-773-4646

Rice Lake Office
217 W Knapp Street
Rice Lake, Wisconsin 54868
Phone: 715-736-1232

Wisconsin Guardianship Support Center

The Wisconsin Guardianship Support Center is a statewide resource for information about guardianships and related issues, such as protective placements, conservatorships, powers of attorney for health care, powers of attorney for finances, living wills, and do-not-resuscitate orders. The center answers questions and provides legal information, case consultation, and referrals, but does not provide legal representation, legal advice, or find or provide guardians. The center's telephone helpline is operated on a call-back basis. You will be asked to leave a detailed message, and your call will be returned. For more information, visit the Wisconsin Guardianship Support Center page on the Greater Wisconsin Agency on Aging Resources (GWAAR) website.

Contact Information

Guardianship Support Center Managing Attorney
Toll free helpline: 855-409-9410
Email: guardian@gwaar.org

Wisconsin Elder Abuse Help Line

The Wisconsin Elder Abuse Help Line Program is a toll-free hotline available for community members and victims to contact for assistance in obtaining needed resources and making referrals to local authorities.

Contact Information

Toll-free: 833-586-0107

County and Tribal Agencies

Every county has an agency that will investigate reported incidents of abuse, neglect, self-neglect, and financial exploitation. If you need to talk to someone about suspected abuse of an elder adult at risk (age 60+), call the Elder Abuse Help Line at 833-586-0107 or your local EAAR agency. To report suspected abuse of an adult at risk (ages 18–59), contact your county AAR agency. Some Wisconsin tribes also have an elder abuse agency, an agency that investigates suspected abuse of younger adults with disabilities, or both. Contact information for county and tribal agencies is located on the Department of Health Services Adult Protective Services website or in the separate agency listing document, P-00328A.

Wisconsin Department of Health Services
Division of Public Health
P-00328 (08/2022)