Issue of Elder Abuse in Healthcare Systems with an Emphasis on Indian Health Services

By

Jacob Davis
Background

The World Health Organization in their 2011 Elder Maltreatment Fact Sheet stated, “that elder mistreatment is a single or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust that causes harm or distrust to an older person.” There are six uniformly recognized types of elder abuse which the Administration on Aging’s National Center on Elder Abuse stated as:

- Physical: use of physical force against an elder that may result in bodily injury, physical pain, or impairment
- Sexual: non-consensual sexual contact of any kind with and elderly person
- Emotional/Psychological: infliction or anguish, pain, or distress to an elder through verbal or nonverbal acts
- Neglect: refusal or failure to fulfill any part of a person’s obligations or duties to an elder
- Abandonment: desertion of an elderly person by any individual who has assumed responsibility for providing care for an elder, or by a person with physical custody of an elder
- Financial/Material Exploitation: illegal or improper use of an elder’s funds, property, or assets

Over the last decade the population of the elderly (65 and over) has increased at a rate of one third the general population making up approximately thirteen percent of the total United States population. With the baby boomer generation reaching the 65 year old milestone the United
States will see an increase on societal demands that the elderly require. One of these demands will be on health systems which will cause an increase on the amount of elderly patients seen at healthcare facilities. Elder abuse is just one issue that healthcare facilities will need to be trained on addressing in order to successfully alleviate the victimization of older adults. The National Center on Elder Abuse reports that, “despite the accessibility of Adult Protective Services (APS) in all 50 states, as well as mandatory reporting laws for elder abuse in most states, an overwhelming number of cases of abuse, neglect, and exploitation go undetected and untreated each year…estimating the incidence of 1 in 10 older adults experiencing some form of abuse⁴.” Helping develop and implement policies and strategies to combat elder abuse within healthcare facilities is crucial in order to protect the older adults within the United States.

**Current Policies and Mandatory Reporting Guidelines**

The United States government first identified elder abuse in the 1987 amendments made to the Older Americans Act and offered them as starting points for states when developing their policies and statutes⁵. The Older American Act added amendment 17 to section 102 that introduced the term elder justice identifying the need for “efforts to prevent, detect, treat, intervene in, and respond to elder abuse, neglect, and exploitation while protecting older individuals and recognizing the individuals rights to be free of abuse⁶.” Since states have jurisdiction over most cases of elder abuse they have the discretion to decide how to define elder abuse and what policies or guidelines to develop and how they are interpreted. This accounts for the differences between the policies and the requirements that each state has on mandatory reporting guidelines. Mandatory reporting in regards to elder abuse makes it a policy that certain individuals need to report suspected abuse. The individuals that are required to report under the mandatory reporting requirements varies and are unique to the individual states statute. Most of
the state statutes require that medical personnel such as doctors, nurses, and psychiatrists have an ethical obligation to report suspected elder abuse to appropriate officials. The state of North Dakota has a mandatory reporting amendment in their century code (section 50-25.2-01) that states:

“Any medical or mental health professional or personnel, law enforcement officer, firefighter, member of the clergy, or caregiver having knowledge that a vulnerable adult has been subjected to abuse or neglect, or who observes a vulnerable adult being subjected to conditions or circumstances that reasonably would result in abuse or neglect, shall report the information to the department or the department's designee or to an appropriate law enforcement agency if the knowledge is derived from information received by that person in that person's official or professional capacity. A member of the clergy, however, is not required to report the information if the knowledge is derived from information received in the capacity of spiritual adviser. For purposes of this subsection, "medical or mental health professional or personnel" means a professional or personnel providing health care or services to a vulnerable adult, on a full-time or part-time basis, on an individual basis or at the request of a caregiver, and includes a physician, nurse, medical examiner, coroner, dentist, dental hygienist, optometrist, pharmacist, chiropractor, podiatrist, physical therapist, occupational therapist, addiction counselor, counselor, marriage and family therapist, social worker, mental health professional, emergency medical services personnel, hospital personnel, nursing home personnel, congregate care personnel, or any other person providing medical and mental health services to a vulnerable adult.”
This statute is very broad on what is considered a “medical or mental health professional or personnel” allowing for a greater number of people that are bound legally to report suspected elder abuse cases. Within this statute a vulnerable adult is defined as anyone that has a functional or mental impairment which gives you an idea of the issues of interpretation that can arise. In order for states to have successful prevention programs there needs to be more uniform standards when developing mandatory reporting statutes and laws.

There are also policies that healthcare facilities implement in regards to responding to issues of elder abuse that their employees may face. The Indian Health Service is a healthcare facility that is responsible for providing healthcare services to members of the 565 federally recognized tribes which include approximately 1.9 million Native American and Alaska Natives. A 1999 report by the Bureau of Justice Statistics on Native Americans and crime stated that, “among persons in the 55 or older category, the American Indian violent crime rate was 22 per 1,000 versus the overall rate of 8 per 1,000.” Since Native Americans and Alaska Natives are almost three times more likely to be a victim of a violent crime there needs to be policies in place to protect them. The Indian Health Service claims to:

“address public health problems like elder abuse by providing direct health care and behavioral health services for patients; developing, implementing, and monitoring health policy; and training providers in the Indian health system to respond to elder abuse.”

The Indian Health Service Health Manual addresses the ethical standards for their healthcare providers which includes the following policies:

- “The most basic consideration of each IHS staff member in the performance of his/her duties and obligations is that the primary responsibility is to the patient/client and that no
harm must occur to the patient/client as a result of the action or inaction of that staff member."

- “Exceptions to the confidentiality of the provider-patient relationship may be made in the following circumstances including when there is danger of harm to the patient or to others. In this case, there is an ethical duty on the part of the provider to share with legal authorities and other appropriate parties only such information that is necessary to prevent or curtail the threatened harm from taking place. Providers are required to follow Federal and State mandatory reporting requirements.”

These policies of the Indian Health Service can be interpreted in a way that holds them legally responsible to report even though they don’t have an explicit mandatory reporting guideline. In order to better serve their clientele there needs to be a uniform policy and protocol that requires healthcare employees of the Indian Health Service to report issues of elder abuse. The National Congress of American Indians recognized the importance of protecting Native American and Alaska Native elders with Resolution #SAC-06-073. This resolution entitled *Developing a Comprehensive Tribal Response to Elder Abuse* included:

“community members and professionals may have the opportunity to prevent, identify, and respond to Elder abuse during the course for the contact with the community Elders through participation at senior centers, social services, Indian Health Services, observation during field contacts, victim disclosure, reports by others in the community. Community members and professionals, therefore, should be attentive to potential Elder abuse indicators when working with Elders; currently, few Tribal law enforcement agencies, social services agencies, and health programs have specific policies, training curricula, or systematic methods to help prevent, identify, and track Elder abuse cases.”
This resolution acknowledged the fact that elder abuse in Indian Country is an important issue and the NCAI endorses and recognizes the importance of taking a proactive stance toward identifying and responding to issues of elder abuse. There is little known regarding the incidence of various types of elder abuse in Indian Country and the development of effective policies and procedures within the Indian Health Service will help in understanding the true extent.

The federal government needs to be more active to help alleviate the victimization of elders. A step in the right direction is the introduction of the Elder Abuse Victims Act of 2013 to the United States House of Representatives. This bill was introduced, “to better protect, serve, and advance the rights of victims of elder abuse and exploitation by establishing a program to encourage States and other qualified entities to create jobs designed to hold offenders accountable, enhance the capacity of the justice system to investigate, pursue, and prosecute elder abuse cases, identify existing resources to leverage to the extent possible, and assure data collection, research, and evaluation to promote the efficacy and efficiency of the activities described in this Act.” If this Act is passed it will allow for the formation of policies and regulations while providing the funds to assist with training and adherence. Healthcare facilities will hopefully be held accountable for lack of elder abuse reporting by oversight committees. The creation of a uniform mandatory reporting policy for healthcare facilities and employees will help address some of the misinterpretations that currently exist when dealing with elder abuse issues.

**Conclusion**

Elder abuse is an issue that healthcare facilities and healthcare professionals need to be educated on so they know the correct way to respond. “Healthcare professionals need to be aware of the variation in perceptions and provide educational materials/resources and contacts to
assist their patients in understanding the nature of abuse and reasoning behind it, while reinforcing that there is no excuse for any degree of elder abuse. The elderly population are the carriers of wisdom and deserve the respect for the parts that they play within society. Elder abuse policies in healthcare facilities are needed to help protect these invaluable members of our communities. “While there are calls for financial, material, political, and academic support for violence prevention, it is only one of a multitude of important public health priorities competing for a limited pool of resources.” The next generation of public health professionals are in the perfect place to help implement the changes needed to adequately address the issue of elder abuse while limiting the chances of victimization in the elderly population.
References