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ARTICLES

# Counselors' Role in Preventing Abuse of Older Adults: Clinical, Ethical, and Legal Considerations

Julia M. Forman and Rebecca G. McBride

*Mistreatment of older adults is commonplace. These individuals are subjected to abuse, financial exploitation, and neglect. The authors present an overview of the literature concerning mistreatment, with an emphasis on clinical, ethical, and legal considerations. Methods are proposed for prevention, including counselor education, advocacy, and counseling opportunities.*

According to the 2004 Survey of Adult Protective Services (APS), 565,747 vulnerable adults were mistreated in their homes and in institutionalized settings (see National Center on Elder Abuse [NCEA], 2006). If this rate remains stable, by the year 2050, approximately 2 million older adult individuals will be abused annually (Welfel, Danzinger, & Santoro, 2000). Of the 565,747 mistreatment cases identified by APS, 5,797 were of a sexual nature, although underreporting is likely because of state-specific restrictions regarding investigations at certain care facilities (Ramsey-Klawnsnik et al., 2007). The majority of individuals over the age of 60 who experience abuse in the United States are Caucasian (77.1%), followed by African Americans (21.2%), and American Indian/Alaskan Natives (.6%; NCEA, 2006). On average, there are approximately 8.3 reports of abuse per 1,000 people over the age of 60, with reports ranging from .40 per 1,000 in Oregon to 24.5 per 1,000 in Connecticut (Ramsey-Klawnsnik et al., 2007). These statistics are particularly disturbing because it has been found that older adults who are abused are 3 times more likely to die at an earlier age than are older adults who are not abused (Black, 2008).

According to the *ACA Code of Ethics* (American Counseling Association [ACA], 2005; Standard A.4.a.), "counselors act to avoid harming their clients, trainees, and research participants and to minimize or to remedy unavoidable or unanticipated harm." However, in our view, in the spirit of "do no harm," with older adults, counselors have a duty to protect clients from potential or substantiated harm. To fulfill this duty, there is a need for greater emphasis on preventative methods to reduce the incidences of abuse perpetrated against older adult clients. The purpose of this article is to examine the current literature on the mistreatment of older individuals and propose preventative measures to reduce the occurrence of abuse. More specifically, we highlight potential abuse symptoms and forms of abuse, perpetrator characteristics,

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and nursing home and other accommodation considerations. Preventative measures for counselors are presented at the end of each section. We also discuss ethical and legal considerations as well as future research directions.

## **ABUSE OF OLDER ADULTS: SYMPTOMS AND FORMS**

Awareness of the various symptoms and forms of elder abuse can allow the counselor to assist a victim. The APS identified three different forms of mistreatment of vulnerable adults: abuse, financial exploitation, and neglect (APS, 2006a). *Abuse* is defined as the intentional infliction of harm onto a person that can be perpetrated either sexually, physically, verbally, or emotionally (APS, 2006a). The second form of mistreatment of vulnerable adults discussed by the APS is *financial exploitation*, which is the process of illegally using a vulnerable adult for monetary gain without that individual's informed consent. The last of the three forms of mistreatment is *neglect*, which is the failure of the vulnerable adult to care for themselves (self-neglect) or the failure of the caregiver to provide proper care (APS, 2006a).

The first form of maltreatment addressed by the APS is abuse, which occurs in a variety of forms. The majority of those experiencing abuse are female and “tend to be highly impaired due to advanced age and have frequent cognitive, physical, and communication limitations” (Ramsey-Klawnsnik et al., 2007, p. 337). The individual is seen as someone akin to a child, in the sense that the older adult is unable to, or simply will not, tell another person about the acts that have been committed against her or him (Jeary, 2005). This may actually increase the boldness of the perpetrator's attacks (Jeary, 2005). Signs of physical abuse include injuries that are not consistent with the individual's explanation of events, dehydration or malnutrition not due to an illness, pain from touching, or the caretaker's incorrect dispensation of medications (APS, 2006b). In particular, cuts, bruises, burns, and untreated injuries should be investigated (APS, 2006a). In addition, these individuals often exhibit other symptoms, including fear, anxiety, anger, withdrawal, nonresponsiveness, contradictory statements, improbable stories, hesitation to talk openly, and confusion or disorientation about events that may have occurred (APS, 2006b).

As previously mentioned, the APS (2006a) identified abuse as one of the three major forms of maltreatment. Abuse that is sexual in nature is also perpetrated against older individuals. Incongruent with such individuals' ability to ward off the attacker and fight back, these sexual attacks are extremely violent, and the perpetrator oftentimes uses weapons (Jeary, 2005). In addition, perpetrators may use humiliation to degrade the individual, because some are purposely attacked when they are using the toilet or are forced into masturbation (Jeary, 2005). Many signs and symptoms accompany this form of abuse. Physical injuries, sexually transmitted diseases, incontinence, wearing multiple layers of clothes or refusing to disrobe, attempting to leave a living facility if this is the place of abuse, fear, and anxiety are red flags to counselors (Ramsey-Klawnsnik et al., 2007).

Signs of the second form of maltreatment, financial exploitation, are sudden changes in the victim's bank account, unexplained withdrawals of large

amounts of money, several checks made out to "cash," unusual activity for the older customer, or substandard care of the vulnerable adult despite having adequate finances (Harris, 2005). Other indicators of financial abuse are unpaid bills, irregularities on the older individual's tax returns, discrepancies between the signature used on checks and the individual's signature of record at her or his financial institution, and the appearance that the vulnerable adult does not know the reason for a visit with a banker or a lawyer (APS, 2006b).

Signs of the third form of maltreatment, neglect, are soiled clothing or linens, and lack of food, water, utilities, comforts at home, and personal belongings (APS, 2006b). Signs of malnutrition that are commonly seen in victims of neglect include weakness, weight loss, diarrhea, sunken cheeks, dry hair, scaly skin, low energy level, and excessive perspiring (APS, 2006a). Causal factors of self-neglect include depression, lack of motivation to live because of isolation, rage, grief, substance addictions, mental and/or physical illnesses, and sacrificing individual or personal needs to put others' needs first (APS, 2006a).

### **MALTREATMENT PREVENTION OPTIONS**

In a recent study, Oktay and Tompkins (2004) concluded that the various forms of abuse, whether verbal, sexual, or physical, when perpetrated by an older individual's personal assistant, were related to the following factors: (a) the lower the income status of the older adult, the higher the incidence of abuse; (b) the higher the number of hours the caregiver spent providing care, the higher the incidence of abuse; (c) having a male personal assistant increases the risk of mistreatment; and (d) having a new personal assistant increases the chance of abuse. The counselor, therefore, may help to prevent abuse by being aware of the general socioeconomic status of the client, determining how much time a personal assistant is working with the older client, and being aware of the gender of the older client's helper. Counselors may educate the client, advocate for her or him, and encourage the older individual to seek references and background checks of caretakers to prevent further damage from occurring (Oktay & Tompkins, 2004). To specifically prevent sexual abuse, it might be beneficial if the counselor is diligent in watching for symptoms, making referrals to proper services for potential perpetrators (e.g., family members or caregivers), and being knowledgeable about protocol for managing disclosures (Bergeron & Gray, 2003).

Financial abuse may be prevented in several ways. Some states now mandate that bank employees report suspected financial exploitation (Black, 2008). However, many banks are still reluctant to report suspected instances of abuse because they are fearful of legal liability. APS laws now include immunity provisions for individuals who make reports in good faith, and these provisions have helped to encourage reporting (Black, 2008). Better education for counselors on the signs of financial exploitation is critical for helping identify the exploitation as it occurs. In addition, counselors may participate in social action, requesting stricter regulations on power of attorney (POA) rights because some areas of the United States, such as New York

City, have no “regulated statute” (Harris, 2005, p. 7) for POA. In essence, this means that someone who is desirous of committing a fraudulent act can use a template POA form and entice their victim into signing away their money (Harris, 2005). If an older client reveals, during a counseling session, a suspicious scenario, the counselor should take swift action to educate the client on the potential consequences of signing forms that might lead to financial harm. Alternate ways for counselors to prevent financial abuse are to advocate for amending the criminal law by specifying financial exploitation as a crime, to advocate for reform of Medicare/Medicaid laws so that users will be able to receive benefits while maintaining their property, and to advocate that local financial institutions create a committee to investigate financial abuse allegations as they arise (Harris, 2005).

Counselors can participate in preventative work regarding neglect and self-neglect. Awareness of neglect symptoms and honest discussions during therapy may prove beneficial. Concerning self-neglect, counselors may try to engage older clients in expressing their feelings to reduce isolation, get involved with the family, encourage medical treatment, and consider pet therapy as options for self-neglect prevention (APS, 2006a). In addition, counselors may engage in discussions that are geared toward what makes life meaningful for the individual and may confront the client about her or his neglectful behaviors, a discussion that could be a catalyst for change to make such clients begin to value themselves again as a person who is worthy of being cared for (APS, 2006a).

A novel approach to prevention for all three areas of mistreatment is the creation of senior citizen friendly safe houses, similar to those currently in place for victims of domestic violence. Currently, most safe houses are not equipped to serve this population effectively. Safe houses should include entrances that are accessible to individuals with a handicap, in addition to bedrooms on the first floor (Bergeron, 2000). Also, narrow doorways need to be widened to accommodate wheelchairs. Currently, safe houses will only permit women to use their services (Bergeron, 2000). This is a disparity because many older men are also abused. Therefore, safe houses should be created to accommodate older men as well as women.

## **PERPETRATORS OF ABUSE OF OLDER ADULTS**

Perpetrators of abuse against older individuals are generally men and can include family members, paid care providers, and fellow residents in the facility where the older adult resides (Ramsey-Klawnsnik et al., 2007). Fifty percent of those who mistreat older people were once abused themselves (Jeary, 2005). Motivations for the mistreatment of older individuals include financial gain, a desire for power or control, or revenge. Many perpetrators have motivations of a sexual nature and often have a sense of detachment or callousness concerning the older adult. Underlying catalysts for sexual abuse against older people include the inability to perform sexually, feelings of sexual inadequacy, sexual fantasies regarding older people, or a desire for sexual gratification (Jeary, 2005).

A number of stressors may lead some caregivers to begin mistreating the individuals they were hired to protect. For example, the caregiver may experi-

ence disappointment and frustration over the care recipient's declining health (APS, 2006a). Financial, emotional, and physical strain, along with the isolation and lack of community resources often lead to caregiver frustration (Bergeron & Gray, 2003). The caregiver may (a) have difficulty maintaining a sense of purpose, (b) feel lonely and criticized by others for the quality of care given to the older person, and (c) reject help that is offered by others. The caregiver may be unable to concentrate, experience a feeling of helplessness, display a lack of excitement about caring for the older individual, and demonstrate a lack of effectiveness in the care of the client. Additional signs of caregiver burnout are sleeping or eating disturbances, smoking or substance use, headaches, irritability, fear, anxiety, impatience, overreaction to small events, emotional withdrawal, hopelessness, feelings of wanting to escape, or suicidal ideation (APS, 2006a). The caregiver may also attempt to keep the vulnerable adult isolated from the outside world; may be hostile, uncaring, or angry toward the care recipient; or may act as if the older adult is a burden (APS, 2006b). The APS also stated that mental illness, criminal activity, or violence within the family are factors that counselors should be watchful of when assessing the caregiver (APS, 2006b).

The need for preventative measures to address the perpetrator's internal issues is great. For example, attending to the emotional concerns of the offenders themselves may decrease or eradicate the mistreatment of older adults (Bergeron, 2000). Clearly, this is a call for counselors to attend to the specific needs and issues a perpetrator may present. Also, because sexual desire was the most commonly reported motivation of the perpetrator for sexual abuse, perhaps those in the helping field could develop assessments to determine relationships between sexual desire and the age of the individual toward whom this desire is directed; these assessments can be administered to persons who are already in prison (Jeary, 2005). Determining that there is a relationship between desire and age of the individual could potentially prevent new cases of sexual abuse from occurring.

The caregiver of an older person is also in dire need of preventative measures. Because caregiver stress is thought to contribute to the abuse of older individuals, attention is needed in this area (Bergeron & Gray, 2003). Counselors should be well informed about resources for clients, whether for the older individual him- or herself or for the caregiver. One resource a counselor may consider educating the caregiver about is respite care. *Respite care* involves an individual coming to the caregiver's residence to relieve the caregiver for a period of time. This time for the caregiver can be invaluable because, as is so often seen in the care of an older patient, it can be nearly impossible for the caregiver to leave the house to run errands or to have any personal time.

Counselor-run caregiver support groups are a valuable tool in preventing abuse of older individuals (Bergeron & Gray, 2003). Caregiver support groups are beneficial in many ways. For example, they (a) provide time and space for respite from caregiving responsibilities, (b) decrease isolation, (c) provide for safe venting and support, (d) facilitate validation, (e) affirm the importance of caregivers' roles, (f) provide appropriate educational materials and resources,

(g) teach coping techniques, and (h) provide ways to address caregivers' concerns and problems (Bergeron & Gray, 2003). During support groups, it may be effective for counselors to encourage caregivers to schedule personal time away from their caregiving duties (Alden, 2003). It is also helpful for counselors to encourage caregivers to set realistic expectations for what their care can accomplish.

It is important for counselors to identify caregiver stress and burnout to prevent instances of mistreatment of older individuals. Resolving caregiver stress and burnout can ultimately increase the quality of life for both the caregiver and the care recipient (Onega, 2008). To help assess caregiver burnout, counselors can administer the Modified Caregiver Strain Index (Onega, 2008), a simple questionnaire that attempts to identify the causes and degree of caregiver stress.

## **NURSING HOMES**

Nursing homes also have laws and restrictions that must be followed (Kohl, 2003). For example, the Omnibus Budget Reconciliation Act (OBRA) of 1987 states that nursing homes "must care for its residents in such a manner and in such an environment as will promote maintenance or enhancement of the quality of life of each resident" (Kohl, 2003, p. 2085). Also, OBRA states that nursing homes must "provide services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident" (Kohl, 2003, p. 2085). Clearly, nursing homes have an obligation to meet and exceed regular standards of care. However, nursing homes sometimes fall short of properly caring for their older patients. Recently, long-term care ombudsman programs investigated 208,749 complaints of nursing home patients (Administration on Aging, 2009). Overall, 12,916 of these complaints were due to abuse, gross neglect, and exploitation of patients.

Kohl (2003) indicated that one possible reason for the failure of proper nursing home care was the inadequate enforcement of the "federal quality care standards" (p. 2086). For example, nursing homes often miss violations during yearly reviews. Also, few reports of abuse are successfully prosecuted because the allegations are not reported to the police (Kohl, 2003). Nursing home employees may be reluctant to report the mistreatment allegations, believing that because of the victim's cognitively or physically impaired state, no harm was done or that the client was experiencing delusional thinking, especially regarding allegations of sexual misconduct (Ramsey-Klawnsnik et al., 2007). Also related to the reluctance of nursing home employees to report mistreatment allegations are fear of job loss, skepticism regarding the veracity of the patient's reports, and fear of adverse publicity (Kohl, 2003). The victims of the abuse may have additional reasons for not reporting their mistreatment, including fear of retribution by the perpetrator, an inability to communicate, or fear of eviction from the nursing home (Kohl, 2003). This delay in reporting may affect eyewitness credibility, prompt concerns about impaired recall, or cause concern about whether the victim will live long enough for the allegation to reach the trial stage (Kohl, 2003).

Sexual acts of abuse occur in assisted living facilities, which have been described as "housing situations which have been specifically chosen to increase

their personal safety and sense of well-being” (Jeary, 2005, p. 337). Perpetrators often target victims in assisted living facilities because of their vulnerable status, such as having dementia or being physically disabled (Jeary, 2005). At a higher risk for sexual victimization are older adults who live in facilities where care is provided by paid staff (Ramsey-Klawnsnik et al., 2007). In addition, staffing in sheltered housing can be inadequate for the needs of the facility, leaving vulnerable adults as easy prey (Jeary, 2005).

For counselors who are affiliated with a nursing home, several measures could be implemented to prevent the mistreatment of the older patient. For example, advocacy for better screening of the facility’s employees, such as checking criminal backgrounds and mandatory drug testing, can be useful tools in creating a safe environment (Ramsey-Klawnsnik et al., 2007). Encouragement for thorough checks of offender registries could help to prevent attacks on older patients. Counselors can also provide continuous education for the staff about neglect, abuse, exploitation, patient rights, burnout, and responsibility to report suspected maltreatment (Ramsey-Klawnsnik et al., 2007). Nursing home employees should be informed about how to conduct initial investigations into reports of abuse and should be trained to recognize signs of sexual abuse (Ramsey-Klawnsnik et al., 2007). Additional staff, including more counselors to provide service to both the caregiver and the care recipient, could also prove beneficial. In addition, Kohl (2003) suggested that cameras within the nursing home facility could be of great use in preventing abuse of older patients. Kohl additionally stated that these cameras could provide constant watch over the residential care facility, provide evidence for the prosecution when abuse allegations go to court, and aid in federal government supervision over the sites. Counselors may also seek to work with families of those in nursing homes, and the individuals themselves, to open up lines of communication about the older adult’s daily existence in the home. Implementing education on laws and policies for both counselors and families of older adults may decrease the risk for mistreatment. Another avenue may be for the counselor to obtain a release from the older client to advocate directly to the facility manager, thereby serving as a liaison.

## **ETHICAL AND LEGAL CONSIDERATIONS**

Counselors are committed to ethically and professionally protect vulnerable populations from harm in a number of ways (Welfel et al., 2000). Counselors working with geriatric clients must be continuously alert that maltreatment is a possibility and create a safe environment wherein these clients feel supported enough to share their concerns (Welfel et al., 2000). Counselors may also ensure that family members are counseled separately if abuse is suspected, thus reducing the possibility that the older adult will feel intimidated by a family member, resulting in a reluctance to disclose (Welfel et al., 2000). It is imperative for counselors to be aware of the risk factors for abuse and use this knowledge as an opportunity to explore the possibility of abuse (Welfel et al., 2000). If possible, the counselor should attempt to include the older client in



the reporting process and report only relevant data so that the client's privacy is protected as much as possible (Welfel et al., 2000). In addition, counselors should discuss any concerns the client may have and assist her or him in understanding the reporting process (Welfel et al., 2000). Counselors should also do their best to preserve the counseling relationship by focusing on the client's feelings, especially feelings of anger or betrayal (Welfel et al., 2000). Finally, counselors should always educate older clients about services available to them (Welfel et al., 2000). In addition to reporting suspected cases of abuse, APS services also include providing meals to the victim, mental health assessments, referrals for guardians and, if necessary, making a call to the police to investigate the allegations of mistreatment further (APS, 2006a).

The *ACA Code of Ethics* (ACA, 2005) stresses the imperative nature of consultation with other knowledgeable professionals if counselors are at anytime unsure whether a case meets the criteria for reporting (Welfel et al., 2000). It is important to remember that counselors only need to suspect abuse in order to report it (Bergeron & Gray, 2003). Counselors should familiarize themselves with their jurisdiction's laws pertaining to reporting. In that way, if there are any suspicions, counselors can report them more efficiently.

State laws ultimately determine whether counselors are required to report suspected abuse; additionally, these laws specify the ages that are considered as "elderly." (Bergeron & Gray, 2003). In states that mandate reporting of mistreatment of older individuals, if a counselor suspects such abuse, they are required to break client confidentiality and report the abuse to authorities such as APS (Welfel et al., 2000). To qualify for services from APS, one must be 65 years old or older, or be an 18- to 65-year-old individual with a disability or disabilities; APS then reports one of the three forms of mistreatment (APS, 2006a). When APS receives a report, they begin an investigation and check into reports of abuse in the home, in nursing homes, in hospitals, in schools, and in community centers (APS, 2006a).

As of 2005, 42 states had passed mandatory elder abuse reporting laws (Glick, 2005). In most states, failure to report such abuse results in a misdemeanor and a fine (Glick, 2005). Laws vary from state to state, which causes confusion when attempts are made to report abuse. For example, the elder abuse protection laws in the United States are imposed in a very cautious manner (Bergeron, 2000). Many of the specifics of these laws for vulnerable or incapacitated adults are defined in an ambiguous manner, with the specifics left up to individual state policies or workers within the APS (Bergeron, 2000). However, most elder abuse laws do have the same general definitions for *vulnerableness* or *incapacity*, creating a unified front on that section (Bergeron, 2000). These characteristics are defined as "a client's inability to defend, access help, verbally articulate concerns, or being so emotionally dependant that, while not rendering the person incompetent, complicates his or her ability to prevent abuse" (Bergeron, 2000, p. 41). When an individual files a report, some states have a specific period during which an investigation will be conducted; others do not (Glick, 2005). If, after the investigation, abuse is substantiated, services (e.g., shelter, meals, counseling, health services, and transportation) will be offered to the older adult victim and to the abuser (APS, 2006b). Currently, however, in states such as Tennessee,

Virginia, and Texas, an older individual has the authority to refuse these services (Glick, 2005). Other states have laws in place that allow authorities to intervene if an older adult refuses services.

The elder abuse protection laws, which seek to protect citizens from abuse but vaguely defines who is to be protected, leaves room for legal dilemmas. Bergeron (2000) asserted that because of the laws' seeming focus on incapacitation or vulnerability, those older adults who would be termed *well* are excluded from the protective components of these laws. Specifically, if the victim of abuse is not, by definition, vulnerable or incapacitated, then the APS could not provide services, even if abuse was actually occurring (Bergeron, 2000). One of the reasons for this exclusion is that every adult has the basic right to choose for themselves, which is called *self-determination*, and it can be a delicate balancing act indeed between the APS's "duty to protect" and "preservation of autonomy" (Bergeron, 2000, p. 40). It is crucial that the victim not make choices under duress, and it is imperative that she or he understands what will be the outcome of decisions regarding the situations with the abuser (Bergeron, 2000). Some older victims will choose to stay in the abusive situation because of fear of the perpetrator, guilt, or "learned helplessness" (p. 42).

Another key issue in preventing abuse of older individuals is the need to reconsider the elder abuse protection laws. Clearer, better defined laws about who is protected (well vs. vulnerable), who is mandated to report, and what types of penalties are incurred for nonreporting should be consistent across states (Bergeron, 2000). In addition, possibly allowing the APS more freedom in their investigations across all 50 states could also be useful in preventing mistreatment. Funding for investigations into abuse should increase with the increasing population, instead of decreasing as is the current trend (Bergeron, 2000). Currently, the APS has less monetary support than Child Protective Services. If APS was granted additional funding, it could be used to better educate APS workers on the mistreatment of vulnerable adults, hire more APS workers, and help develop more community resources, such as safe houses built specifically for the older population (Bergeron, 2000).

Currently, in some states, laws are in the process of being refined (Black, 2008). For instance, laws have been created to mandate harsher sentences for people who have committed crimes against older adults (Black, 2008). In Nevada, for example, crimes against people who are 60 years or older carry a sentence that is twice as long as sentences for crimes committed against a younger person.

### **FUTURE RESEARCH DIRECTIONS**

Prevention and additional investigation concerning abuse of older adults and treatments for such abuse are warranted. Implications for future research include expanded city-sponsored social services for both older adults and their caregivers and the effects of the research on the incidences of abuse. Effects of standardization of laws from state to state, a generally universal definition of who can give consent to investigate, and an increased dialogue concerning the duty to protect versus preservation of autonomy are possible areas for exploration. More literature is also

needed specifically concerning effective treatment planning and interventions. Caregiver research also needs to be expanded. A potential qualitative study from a phenomenological orientation would be to research the experience of being in the role of a caregiver. A better understanding of the caregiver's experience could lead to enhanced prevention strategies.

Because the population of older adults is increasing steadily, it is imperative that more research studies be developed to address how counselors can prepare for this growing population. Professionals should develop workshops and continuing education seminars to assist counselors in preparing for the rapid increase of older clients.

More research needs to be developed to address multiculturalism with regard to mistreatment of older adults. For instance, there is currently no literature available on lesbian, gay, bisexual, transgender, queer, questioning, and intersex older adults. It is important that this population's special needs are not ignored. Additionally, researchers could conduct further studies on different cultures' esteem of older individuals, the likelihood that individuals within those cultures will care for an older person, and any potential correlation with these factors to incidences of abuse.

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