HOW MANY OF YOU ARE...

- Direct support staff
- Individual receiving services
- Management
- Family member

How many of you have...

- Witnessed an abuse incident (ANI)?
- Reported an abuse incident (ASI)?
- Been interviewed by DH/PHD?

Common feelings and reactions to trauma
Vicarious Trauma

- "Compassion fatigue"
- Personal experience with abuse, PTSD
- Trauma
- NOT the trauma in burnout
- How can we protect ourselves?

COURSE AGENDA:
What you will learn

- What competency in ANL means
  - What would it mean to be "competent" in this regard?
- Prevalence of ANL in individuals with ID/DD
- Current rules and requirements for reporting
- ANL Definitions

COURSE AGENDA, cont’d

- How to recognize the "warning signs" (indicators)
- How to keep people safe when ANL is suspected
- Immediate Action and Safety Plans
- How to report via the DRH/IBHH online and fill out the ANL Report Form
Course Agenda, cont'd

- Who you are required to notify
- What New Mexico Administrative Code (NMAC) requires for providers
- How the Incident Management Bureau (IMB) conducts investigations, including the provider's role

You'll know all that by the time you take the post-test!

Exams and grades are temporary, but education is permanent.

What is a competency-based course?

- Pre-test
- Then retested against post-test score
- Post-test (same content)
- "P" or "above"
Don’t panic!

All material will be covered.

---

**PRE-TEST**

- 15 minutes
- What you know now
- It helps you understand the areas that you will be tested on at the end of the course
- Same content as the post-test

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### Prevalence of Abuse Against People with Intellectual/Developmental Disabilities

**Who is at risk for abuse?**

- Why?
  - Incapacity behaviors taught
  - Limited communication skills
  - Fear
  - Older or younger

---

### 2012 National Survey on Abuse Against People with Disability: Findings

2012 National Survey on Abuse Against People with Disability: Findings

- Over one-third were physically abused
- Over one-third were sexually abused more than once
- 9 out of 10 who were abused were abused multiple times in multiple ways
- Only one-third reported it

---

### NEW MEXICO SFY '15 IMB DATA

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Value</th>
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<tbody>
<tr>
<td>Total Reports Received in SFY 1999</td>
<td>2,960</td>
</tr>
<tr>
<td>Total Reports Abandoned for Investigation</td>
<td>1,182</td>
</tr>
<tr>
<td>Number of Allegations Substantiated</td>
<td>362</td>
</tr>
<tr>
<td>Number of Consumers Determined to Be Victims of Abuse</td>
<td>622</td>
</tr>
<tr>
<td>Number of Consumers Reported to Be Victims of Abuse</td>
<td>611</td>
</tr>
<tr>
<td>Number of Abuse Incidents in a Year</td>
<td>97</td>
</tr>
<tr>
<td>SFY 15 Events/Milestone Rate</td>
<td>31.9%</td>
</tr>
<tr>
<td>Annual Rate of Abuse</td>
<td>18.2%</td>
</tr>
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</table>
Something to consider...

- Abuse reporting in New Mexico and across the nation is under reported
- What did we know of?
- What does this mean for us as service providers?

Reasons for not reporting:

- 58% believed that nothing would happen
- 39% had been threatened or were afraid
- 13% did not know how to report
- Nearly half did not even recognize they were experiencing abuse because it was such a common occurrence in their lives.

*Source: 2012 National Survey on Abuse Against People with Disabilities*

SOME ADDITIONAL READING

- 2013 Department of Justice, Bureau of Justice Statistics: "Crimes Against Persons with Disabilities" (2009-2013)
- Incident Management Bureau's annual report
Let's Bring it Closer to Home

REPORTING REQUIREMENTS

- Definitions were revised in 2014
- Abuse includes both verbal and sexual abuse
- Neglect includes act that caused harm or is likely to cause harm
- Immediate reporting to DHHS/EMB is abuse

Current reporting requirements, cont'd

- Required to document the actions to keep people safe (and share with EMB)
- You do **NOT** need to report every use of law enforcement or emergency services to EMB
- EMB investigates allegations involving Mi Vida participations
- Roles and responsibilities of provider agencies - what you are responsible for
- EMB investigates people in trust relationships with the individual
Who is protected by NMAC 7.1.14?

- Individuals within the Developmental Disabilities Waiver program (DDW)
- Individuals within the Medically Fragile Waiver
- Individuals within the ViVa Self-Directed Waiver
- Licensed facilities (L/F/H/I)
- Assisted choice members only
ABUSE

1. "Knowingly, intentionally, and without justifiable cause inflicting physical
   pain, injury, or mental anguish."
   
   And/or...

Abuse

2. "The intentional deprivation by a caretaker or other person of services
   necessary to maintain the mental and physical health of a person;"
   
   Or...

Abuse

3. "Sexual abuse, including criminal sexual contact, incest, and criminal
   sexual penetration."


A scenario to consider – Family Living Provider

Sexual Abuse

..."inappropriate touching of a recipient of care or services for sexual purpose or in a sexual manner and includes:

- Exposing
- Touching the genitalia, buttocks or breasts
- Causing the recipient of care or services to touch another for sexual purpose.
- Causing or promoting or observing the sexual purpose any act that or performance or depiction of any considered pornographic."
Sexual abuse, cont'd

- "Sexual conduct engaged in by an employee with a person for whom they are providing care or services is sexual abuse per se."

Verbal abuse

- "Profane, threatening, derogatory, or demeaning language spoken or conveyed with the intent to cause mental anguish."

A scenario to consider...
Neglect

- Failure of the caretaker to provide basic needs of a person, such as
  clothing, food, shelter, supervision, and care for the physical or mental health
  of that person.
- Neglect causes or is likely to cause harm to a person.

A scenario to consider...

Exploitation

- "Injurious or improper use of a person’s money or property for another
  person’s profit or advantage, financial or otherwise."
A scenario to consider...

SUSPICIOUS INJURIES

Examples:
1. Any injury that is not consistent with the explanation given for it.
2. Repeated injuries happening to an individual regardless of cause.
3. Injuries, severe, because of injury raise concerns.

Could these be suspicious injuries?
ENVIRONMENTAL HAZARDS

* *A condition in the physical environment which creates an immediate threat to health or safety of the individual*
DEATHS

- All deaths must be reported to DHI/IMB
- IMB staff reviews the report, may assign for investigation
- What might IMB investigate?

Possible key warning signs of ANE...

- Change in behaviour, sleep, eating patterns - out of the normal routine
- Self-mutilation, self-aggressive behaviour (increase)
- Nightmares, loud-wailing, crying
- What else might you notice?
Group Activity: Identifying ANF

A game for teams to test their knowledge.

IMMEDIATE REPORTING

- Who is responsible for reporting ANF?
- What does "immediate" mean?
- What does the law say?

PERSON OF TRUST

- DHR/EMS investigates people in "trust relationships" with individuals
- Who is a person of trust?
- Some things to consider...
Reports to IMB: SFY '15

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<th>Inactive</th>
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<td>220</td>
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<tr>
<td>Southeast</td>
<td>550</td>
<td>71</td>
<td>621</td>
</tr>
<tr>
<td>Southwest</td>
<td>859</td>
<td>91</td>
<td>950</td>
</tr>
<tr>
<td>Total</td>
<td>4861</td>
<td>603</td>
<td>5464</td>
</tr>
</tbody>
</table>

Reporting ANE

* First, call DHI/IMB's hotline: 1-800-445-6242
* Review: When, who, and what?
* Be prepared to describe what happened
  - Where?
  - What?
  - Who?
  - Who was involved?
  - What happened? What could you have done to help people avoid?

ANE REPORT FORM (SFY 2016)

* [https://ane.health.state.mn.us](https://ane.health.state.mn.us)
* Fax: 1-800-384-6057
* The most common questions people ask are:
  - Where can I get the form?
  - Can you help me fill it out?
  - How long do you have to submit the form?
Safety intervention activity

"If ______ (AND) is true, what should I do?"

Identify:
- 1. Who is at risk?
- 2. Who else might be at risk?
- 3. What actions will you take to ensure immediate safety?

IMMEDIATE ACTION AND SAFETY PLAN

What is it?
What do you need to include?

Immediate Action and Safety Plan
WHO DO YOU NOTIFY?

- Who are we required to notify?
- How much time do we have?
- Never assume or hope that someone else will report
- Who if you're the responsible provider at the time of the incident?

CONSEQUENCES FOR FAILING TO REPORT

- NOTIFICATION
  - When is the agency likely to be held responsible?
  - When is the employee likely to be held responsible?
  - Reporting is REQUIRED
  - Sanction may occur for failing to report
What happens when you report?

- Screen in (review IASP)
- Screen out – not everything that is reported is investigated

Referrals may be made to:
- Law enforcement
- Children, Youth and Family Department (CYFD)
- Adult treatment centers (ATC)
- Other?

An investigation will be opened if...

- The alleged victim is protected by NMAC and has a right to an investigation (DHR/OMI has jurisdiction to investigate)

- The allegation/occurrence meets the NMAC definitions (DHR/OMI has authority)
The text on the images is not legible. However, based on the layout and structure, it appears to discuss what to expect from an investigation, and standards of proof. The specific points mentioned in the text could include:

**What to expect from an investigation**
- Interviews will occur
- Site visits, photography
- Relevant documents collected and reviewed
- 15 days to findings (determination)
- Note: there may be extensions in certain circumstances

**What to expect from an investigation, cont'd**
- The evidence will be weighed: this is a preponderance standard
- A finding will be made: substantiated or unsubstantiated

**Standards of Proof**
- Preponderance of evidence (what 11B/1184 are)
- Beyond a reasonable doubt (criminal cases)
What about “Internal Investigations”?  
- What are internal investigations?  
- NAC 7114

NO INTERNAL INVESTIGATIONS
- ...beyond what is necessary to make an accurate report to DHSS and keep people safe.
  - DO:  
    - Send out as much as possible to keep individuals safe  
    - Take any required steps for medical care or making sure the environment is safe  
  - DON'T:  
    - Assume evidence (e.g., drugs, alcohol) is not required for medical care  
    - Observe clients from a separate or concomitant of face to face to identify the medial personnel

Don’t...
- Talk to everyone involved  
- Talk to the colleagues about details  
- Remove or alter (or) evidence  
  - Progress notes  
  - Medication bottles, 30-60
FOLLOWING THE INVESTIGATION:
Notification of Investigation Results

- DHH will notify in writing:
  - The provider
  - The consumer
  - Alleged person
  - Local health care licensing body
  - DHH Regional Office
  - The accused person

Informal Reconsideration of Findings (IRFs)

- You have the right to request reconsideration
- Must be made in writing within 10 days of the date of the letter of substantiation
- All requests addressed to DHH Bureau Chief
  - Department of Health, Division of Health Improvement, 570 Central Ave NE
  - Saint Paul, MN 55119
  - Written decisions will be issued within 30 days of receipt
  - Decision is non-appealable except as provided for by law

What questions do you have?
What State Law Requires

* Three (3) state regulations that cover Incident Management
  * The one – the local law (may vary) – OSA IC 371A
  * The other two are:
    * CCHS (Caregivers Criminal History Screening)
    * EAR (Employee Abuse Registry)

CCHS (Caregivers Criminal History Screening)

* Requires ALL applicants, caregiver (including hospital caregiver) to consent
to a nationwide and statewide screening
* No later than 30 calendar days from the 1st day of employment
* Disqualifying felony convictions = cannot be employed or contracted as a
caregiver

EAR (Employee Abuse Registry)

* What is it?
* When do employers need to check the EAR?
* What happens if you are referred to the registry?
Important reminders

• Immediate reporting
• Limited procedural investigation
• IASP (Immediate Action and Safety Plan)
• Preserve evidence
• Notify the guard, case manager, consultant – 24 hours
• If you are not the responsible person, notify them
• NO RETALIATION!

RETALIATION

• What is it?
• Zero tolerance for retaliation when reporting without false claims

Examples of retaliation

• Termination of contract or employment
• Discrimination or demotion
• Start change
• Pay cuts, reduced hours
• Other?
CONFIDENTIALITY

• WHAT IS IT?

• TEST

• The incident, the alleged victim’s name, the reporting witness, and
documentation related to the incident will remain confidential.

• Great legal case and important to affect the

• Anonymity vs. confidentiality

Who is ready for the competency exam?

POST-TEST

• Any last questions or clarifications?

• Review your notes and highlighted sections of the role we talked about
IT'S OVER!

THANK YOU FOR ALL YOUR HARD WORK!

- JENNY BARTUS (DH Tricolor) - JennyB@barlowtricolor.com
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- EDWARD STALLARD (DH BUREAUX BUREAU) - Edward.Stallard@nyc.gov
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