

Recognizing and Reporting  
Abuse, Neglect and Exploitation

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A Training for Community-Based  
Service Providers

# WELCOME TO THE TRAINING!

- Introduction of presenter(s)
- Our plan for the day



# HOUSEKEEPING

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- Question Wall
- Index cards and envelopes
- Lunch, breaks, restrooms
- Confidentiality

# HOW MANY OF YOU ARE....

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

## How many of you have...

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- Witnessed an abuse incident (ANE)?
- Reported an abuse incident (ANE)?
- Been interviewed by DHI/IMB?

# Common feelings and reactions to trauma



# Vicarious Trauma

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- “Compassion fatigue”
- Personal experience with abuse, PTSD
  - Triggers
- NOT the same as burnout
- How can we protect ourselves?

# COURSE AGENDA:

## What you will learn

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- What competency in ANE means
  - What would it mean to be “competent” in this subject?
- Prevalence of ANE in individuals with I/DD
- Current rule and requirements for reporting
- ANE Definitions

## COURSE AGENDA, cont'd

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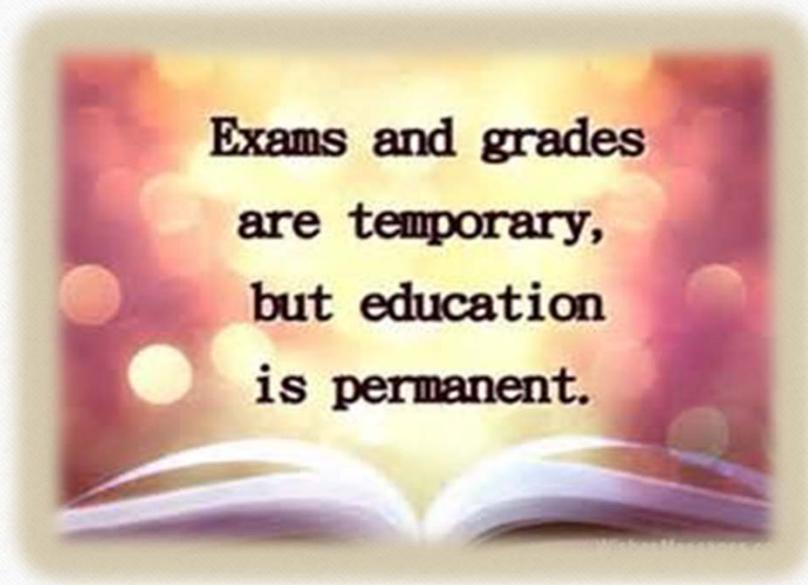
- How to recognize the “warning signs” (indicators)
- How to keep people safe when ANE is suspected
- Immediate Action and Safety Plans
- How to report via the DHI/IMB hotline and fill out the ANE Report Form

## Course Agenda, cont'd

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- 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!



# What is a competency-based course?

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- Pre-test
  - Does **not** count against your final score
- Post-test (same content)
- 90% or above

Don't panic!



All material will be covered.

# PRE-TEST

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



# PREVALENCE OF ANE AGAINST PEOPLE WITH INTELLECTUAL/DEVELOPMENTAL DISABILITIES

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- **WHO IS AT RISK FOR ANE?**
- **Why?**
  - Compliant behavior is taught
  - Limited communication skills
  - Fear
  - Other reasons?

# 2012 National Survey on Abuse Against People with Disabilities Findings

Spectrum Institute National Disability and Abuse Project

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(The term 'Abuse' here refers to ANE)

- 2/3 of all people with intellectual/developmental disabilities have been victims of abuse, neglect and/or exploitation
- 8 out of 10 of these people were verbally/emotionally abused
- More than half were physically abused
- Over a 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

<b>TOTAL DD WAIVER AND MI VIA SELF-DIRECTED WAIVER POPULATION</b>	<b>4,959</b>
TOTAL REPORTS RECEIVED BY IMB	2,060
TOTAL REPORTS ASSIGNED FOR INVESTIGATION	1,452
NUMBER OF ALLEGATIONS SUBSTANTIATED	592
NUMBER OF CONSUMERS REPORTED TO BE VICTIMS OF ANE	642
NUMBER OF CONSUMERS DETERMINED TO HAVE BEEN ABUSED	434
NUMBER OF CONSUMERS WHO WERE RE-ABUSED IN A YEAR	97
SFY 15 STATE-WIDE ABUSE RATE	11.9%
RE-ABUSE RATE	16.3%

# Something to consider...

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- Abuse reporting in New Mexico and across the nation is under-reported
  - *And we know it!*
- What does that mean for us as service providers?

## Reasons for not reporting\*

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- 58% believed that nothing would happen
- 38% had been threatened or were afraid
- **33% did not know how or where 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*

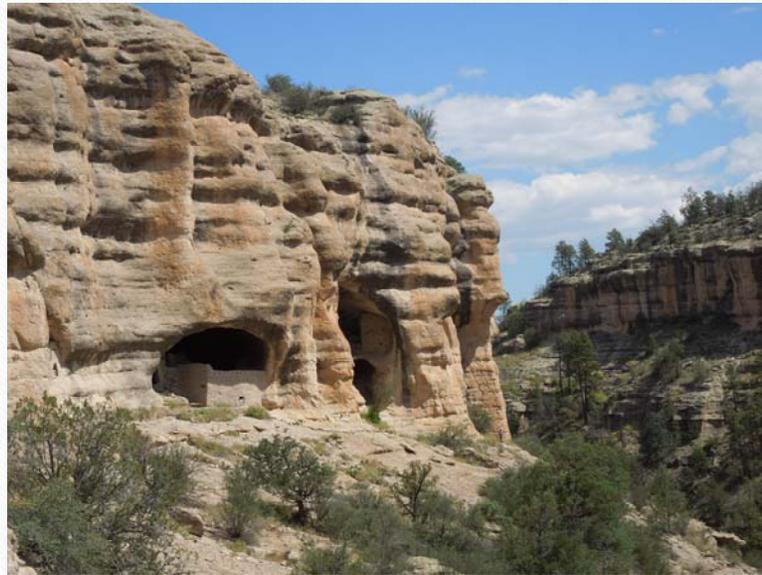
# SOME ADDITIONAL READING

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- 2013 Department of Justice, Bureau of Justice Statistics: “Crimes Against Persons with Disabilities” (2009-2013)
- Incident Management Bureau’s annual report
  - <http://nmhealth.org/publication/view/report/1997/> (SFY ‘15)

Let's Bring it Closer to Home

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# REPORTING REQUIREMENTS

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- Definitions were revised in 2014
  - Abuse includes both verbal and sexual abuse
- Neglect includes action that caused harm or is likely to cause harm
- Immediate reporting to DHI/IMB's hotline

## Current reporting requirements, cont'd

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- Required to document the actions to keep people safe (and share with IMB)
- You do **NOT** need to report **every** use of law enforcement or emergency services to IMB
- IMB investigates allegations involving Mi Via participants
- Roles and responsibilities of provider agencies – what you are responsible for
- IMB investigates people in trust relationships with the individuals

# Who is protected by NMAC 7.1.14?

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- Individuals within the Developmental Disabilities Waiver program (DDW)
- Individuals within the Medically Fragile Waiver
- Individuals within Mi Via Self-Directed Waiver
- Licensed facilities (ICF/IID)
  - *Jackson* class members only

10 minute break



# NMAC 7.1.14

**IMPORTANT**

**TITLE 7 HEALTH**  
**CHAPTER 1 HEALTH GENERAL PROVISIONS**  
**PART 14 ABUSE, NEGLECT, EXPLOITATION, AND DEATH REPORTING, TRAINING**  
**AND RELATED REQUIREMENTS FOR COMMUNITY PROVIDERS**

**7.1.14.1 ISSUING AGENCY:** Division of Health Improvement, Department of Health.  
[7.1.14.1 NMAC - N, 07/01/14]

**7.1.14.2 SCOPE:** This rule is applicable to persons, organizations or legal entities receiving developmental disability waiver funds and developmental disability medically fragile waiver funds acting as community-based service providers as defined in this rule.  
[7.1.14.2 NMAC - N, 07/01/14]

**7.1.14.3 STATUTORY AUTHORITY:** Department of Health Act, Subsection E of Section 9-7-6, Subsection D of Section 24-1-2, Subsections I, L, O, T and U of Sections 24-1-3 and 24-1-5 NMSA 1978 of the Public Health Act as amended.  
[7.1.14.3 NMAC - N, 07/01/14]

**7.1.14.4 DURATION:** Permanent.  
[7.1.14.4 NMAC - N, 07/01/14]

**7.1.14.5 EFFECTIVE DATE:** July 1, 2014, unless a later date is cited at the end of a section.  
[7.1.14.5 NMAC - N, 07/01/14]

**7.1.14.6 OBJECTIVE:** This rule establishes standards for community-based service providers to institute and maintain an incident management system and employee and volunteer training programs for the reporting of abuse, neglect, exploitation, suspicious injuries, environmentally hazardous conditions and death.  
[7.1.14.6 NMAC - N, 07/01/14]

**7.1.14.7 DEFINITIONS:**

- A. "Abuse" including verbal abuse, means:
- (1) knowingly, intentionally, and without justifiable cause inflicting physical pain, injury or mental anguish;
  - (2) the intentional deprivation by a caretaker or other person of services necessary to maintain the mental and physical health of a person; or
  - (3) sexual abuse, including criminal sexual contact, incest, and criminal sexual penetration.
- B. "Abuse, neglect, exploitation, or report of death form" means the reporting format issued by the division for the reporting of incidents which may relate to abuse, neglect, or exploitation of a consumer, including suspicious injuries, or for reporting any death.
- C. "Case manager" means the staff person designated to coordinate and monitor the individual service plan for persons receiving community-based services.
- D. "Community-based service providers" means any person, organization, or legal entity, including mi via consultants, providing the following services, and having any provider agreement with the department of health:
- (1) "developmental disability waiver services" means a medicaid funded home or community-based services for persons with intellectual and developmental disabilities; and
  - (2) "medically fragile waiver services" means medicaid funded home or community-based services for persons with intellectual and developmental disabilities who are medically fragile.
- E. "Consultant" means the person or entity supporting the mi via consumer to make informed choices among the services offered through the mi via waiver, develop service and support plans (SSP), and providing on-going assistance with SSP implementation.
- F. "Consumer" means any recipient of services from a community-based service provider.
- G. "Department" means the New Mexico department of health.
- H. "Division" means the department of health, division of health improvement, incident management bureau.



# ABUSE

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- 1. “Knowingly, intentionally and without justifiable cause inflicting physical pain, injury, or mental anguish;”
- And/Or...

# Abuse

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- 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

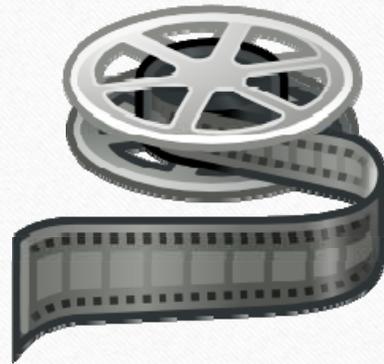
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- 3. “Sexual abuse, including criminal sexual contact, incest, and criminal sexual penetration.”

# A scenario to consider – Family Living Provider

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- See video clip!



# Sexual Abuse

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- ...“inappropriate touching of a recipient of care or services for sexual purpose or in a sexual manner and includes:
  - Kissing
  - Touching the genitals, buttocks or breasts
  - Causing the recipient of care or services to touch another for sexual purpose,
  - Or promoting or observing for sexual purpose any activity or performance involving play, photography, filming, or depiction of acts considered pornographic.”

## Sexual abuse, cont'd

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

# A scenario to consider – Supported Living...

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- See video clip!



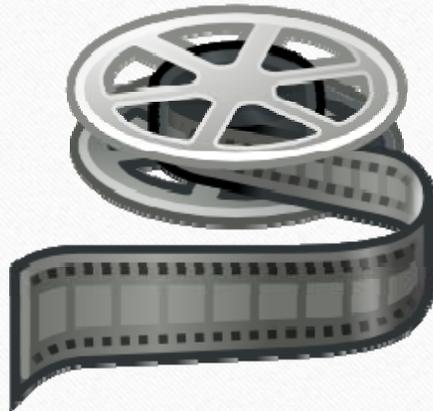
# Verbal abuse

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



# A scenario to consider...

- See video clip!



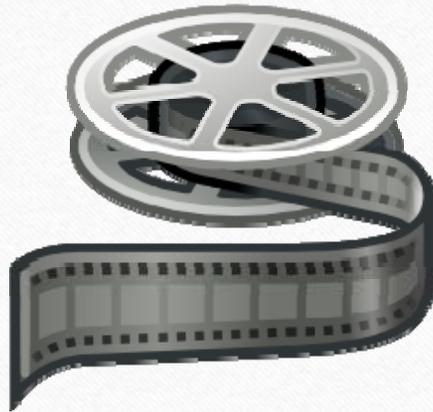
# Neglect

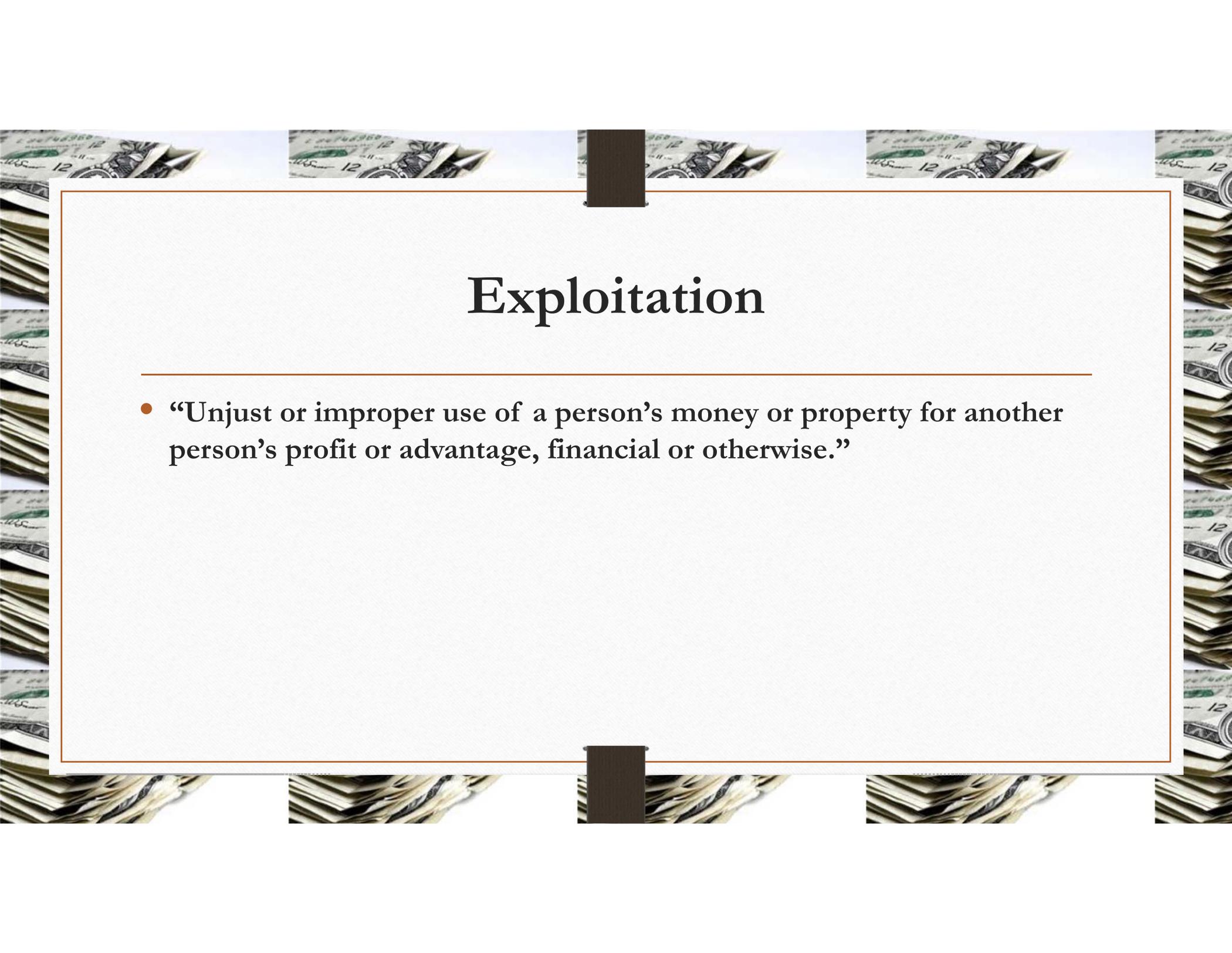
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- “Failure of the caretaker to provide basic needs of a person, such as clothing, food, shelter, supervision, and care for the physical or mental health of that person.”
- Neglect causes, or is likely to cause, harm to a person.

# A scenario to consider...

- See video clip!





# Exploitation

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- “Unjust or improper use of a person’s money or property for another person’s profit or advantage, financial or otherwise.”

# A scenario to consider...

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- See video clip!



# SUSPICIOUS INJURIES

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## Examples:

1. Any injury that is not consistent with the explanation given for it.
2. Reoccurring injuries happening to an individual regardless of care plan
3. Frequency, severity, location of injuries raise concerns.

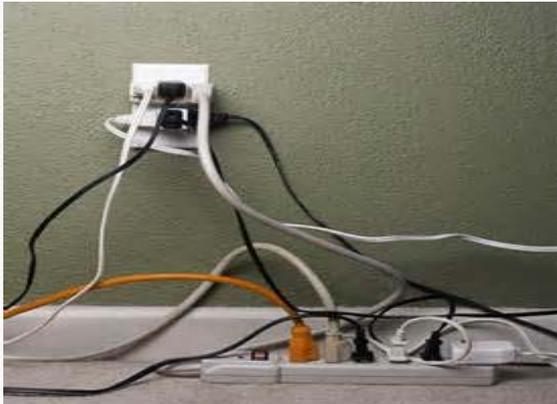


Could these be suspicious injuries?



# ENVIRONMENTAL HAZARDS

- “A condition in the physical environment which creates an immediate threat to health or safety of the individual.”



# Activity

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- Teams and Rules!



# DEATHS

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



## Possible key warning signs of ANE...

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- Change in behavior, sleep, eating patterns – out of the normal routine
- Self isolating, self-injurious behavior (increase)
- Nightmares, bed-wetting, crying
- ...what else might you notice?

# Group Activity: Identifying ANE

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A game for teams to test their knowledge!



# IMMEDIATE REPORTING

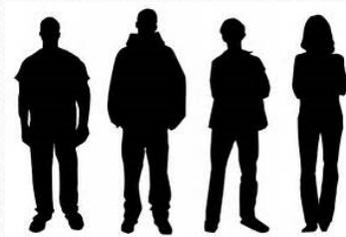
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- Who is responsible for reporting ANE?
- What does “immediate” mean?
- What does the law say?

# PERSON OF TRUST

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- DHI/IMB investigates people in “trust relationships” with the individual
- Who is a person of trust?
  - Some things to consider...



# Reports to IMB: SFY '15

Region	Number of Consumers supported	Abuse allegations	Neglect allegations	Exploitation allegations	Total allegations reported to DHI	Reports screened out by IMB	Reports Assigned for Investigation
Metro	2356	362	655	110	908	257	651
Northeast	501	30	107	17	143	50	93
Northwest	364	43	126	19	185	44	141
Southeast	560	74	298	56	406	119	287
Southwest	859	91	321	40	418	138	280
Totals	4661	600	1507	232	2060	608	1452

# Reporting ANE

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- **First, call DHI/IMB's hotline: 1-800-445-6242**
  - Review: Who calls, and when?
- **Be prepared to describe what happened**
  - Who?
  - What?
  - Where/when?
  - Is someone identified as responsible?
  - What did you do? What do you plan to do to keep people safe?

# ANE REPORT FORM (current form)

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- <https://ane.health.state.nm.us>
- Fax: 1-800-584-6057
- The most common questions people ask are:
  - Who completes this form?
  - Can you skip sections?
  - How long do you have to submit this form?

# ANE REPORT FORM (current form)

**NEW MEXICO**  
**HEALTH**

**ABUSE, NEGLECT AND EXPLOITATION OR REPORT OF DEATH FORM (SFY 2016)**  
Always notify DHI/IMB immediately concerning incidents for individuals receiving the Developmental Disabilities Waiver (DDW), DD MI Via Waiver, or Medicaly Fragile Waiver. Contact IMB On Call at 1-800-445-6242 and send ANE form within 24 hours via <http://ane.health.state.nm.us> or by fax at 1-800-584-6057.

**SECTION 1 - CONSUMER INFORMATION**

First Name:  Middle Name:  Last Name:   
Social Security Number:  Gender:  Date of Birth:  (mm/dd/yyyy)  
 Male  Female  
Street:  City:  State:  Zip Code:   
Telephone:

Assist with Ambulation  Personal Care  Nutritional Fluid Intake  Transfer  None  
 Gait Belt  Bathing  J-Tube  2 or More Persons  Other:   
 Walker  Incontinence  G-Tube  High Risk for Aspiration  
 Wheelchair  Toileting  Total Care:  
 Toothbrushing

Method of Communication:

**SECTION 2 - DESCRIPTION OF INCIDENT**

Report of Death:  Death  
Type of alleged incident:  
Abuse:  Physical  Sexual  Verbal  Neglect  Exploitation  Suspicious Injury  Environmental Hazards  
Date of Incident:  Time:   
Location Where Incident Occurred:

Person Responsible for Individual's care at time of incident:

Is this person employed by a provider agency? If so, please state which agency:

What is the person's relationship if not a provider:

Were other individuals present?  Yes  No Please list other Consumers/Individuals Initials:

Other People?  
Name:  Title:   
Name:  Title:   
Name:  Title:   
Name:  Title:

To notify Child Protective Services of an incident involving a child, call: 1-800-797-3260  
To notify Adult Protective Services of an elder or non-DD waiver adult call 1-866-654-3219



**KEEP  
CALM  
AND THINK  
HEALTH AND  
SAFETY**

# KEEPING PEOPLE SAFE

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- Our first priority!
- A REQUIREMENT
  - NMAC 7.1.14.8 (C)(4)
- How do we keep people safe if we suspect ANE?



# Safety intervention activity

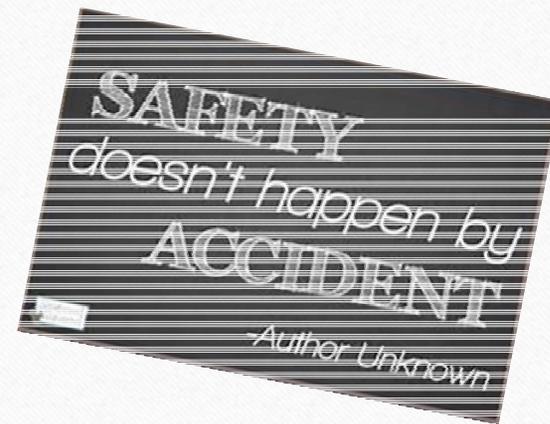
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- “If \_\_\_\_\_ (ANE) is true, what should I do?”
- Identify:
  - 1. Who is at risk?
  - 2. Who else might be at risk?
  - 3. What actions will you take to ensure immediate safety?

# IMMEDIATE ACTION AND SAFETY PLAN

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- What is it?
- What do you need to include?



# Immediate Action and Safety Plan

Department of Health, IMB  
Abuse/Neglect/Exploitation  
**Immediate Action and Safety Plan**

Responsible Provider:

Alleged Victim(s) (include birthdate or social security number):

Accused Person(s): Relationship to Alleged victim(s):

Date of Incident: Time of incident:

Did the incident create concern for the safety of consumer(s) served?

Yes  No

Immediate Action and Safety Plan drafted by (Name and title):

Section 1. - Required	Section 2. - Required	Section 3. - Required
<b>Describe the identified Safety Risk(s)</b> When describing the safety risk, be sure to name the consumer(s).	<b>Action to address risk</b> What action has or will be taken to protect the consumer(s) from the identified safety risks(s)?	<b>Plan Management</b> How will the plan be managed? Who is responsible for implementing the plan? Who is responsible for communicating the plan?

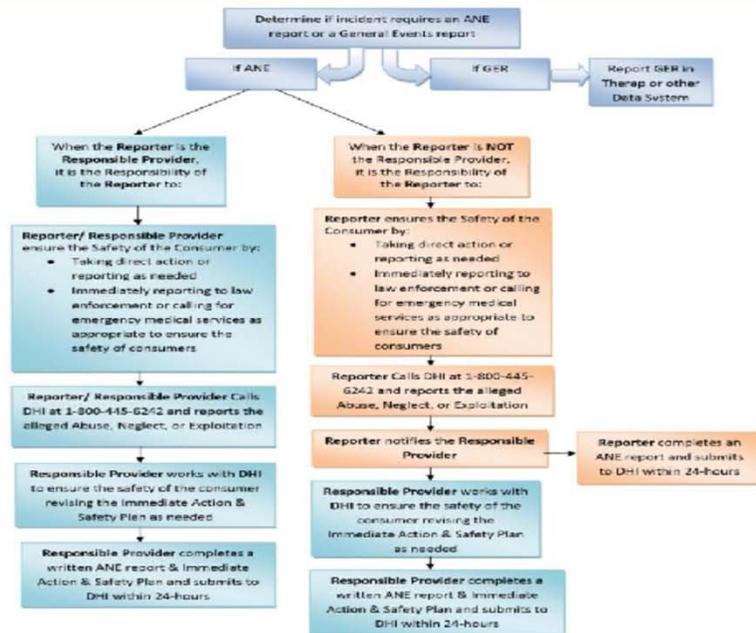
# WHO DO YOU NOTIFY?

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- Who are we required to notify?
- How much time do we have?
  - Never assume or hope that someone else will report!
- What if you're not the responsible provider at the time of the incident?



### ABUSE, NEGLECT, EXPLOITATION REPORTING FLOW CHART



# CONSEQUENCES FOR FAILING TO REPORT

## FAILURE TO FOLLOW NMAC PROVIDER REQUIREMENTS

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- NMAC 7.1.14.11
- When is the agency likely to be held responsible?
- When is the employee likely to be held responsible?
- Reporting is **REQUIRED**
  - Sanctions may occur for failing to report!



Break?



# What happens when you report?

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- **Screen in (review IASP)**
- **Screen out – not everything that is reported is investigated**
- Referrals may be made to:
  - Law enforcement
  - Children, Youth and Families Department (CYFD)
  - Adult Protective Services (APS)
  - Others?

## An investigation will be opened if...

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- The alleged victim is protected by NMAC and has a right to an investigation (DHI/IMB has jurisdiction to investigate)
- The allegation/incident meets the NMAC definitions (DHI/IMB has authority)

# What to expect from an investigation

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When an investigator is assigned, they will review the IASP

- Interviews will occur
- Site visits, photos
- Relevant documents collected and reviewed
- 45 days to findings (determination)
  - Note: there may be extensions in certain circumstances



## What to expect from an investigation, cont'd

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- The evidence will be weighed: the preponderance standard
- A finding will be made: substantiated or unsubstantiated

# Standards of Proof

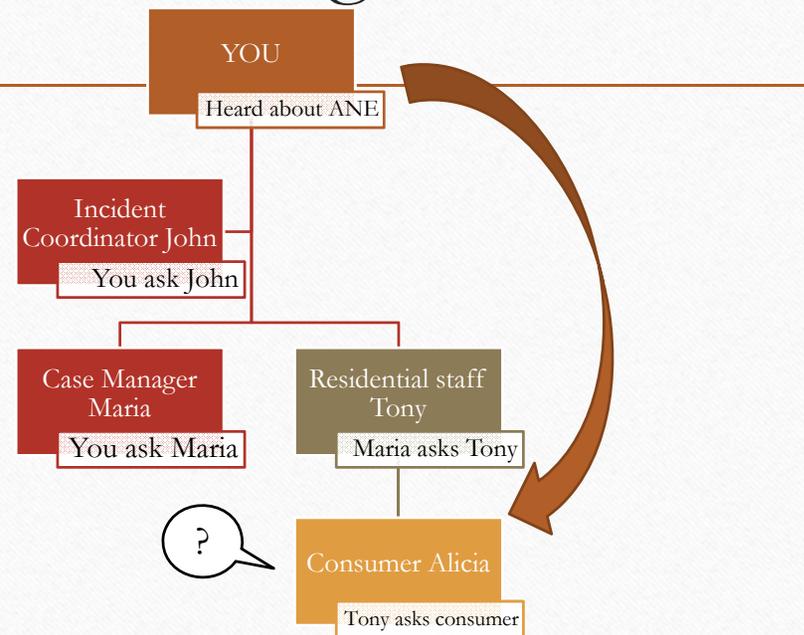
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- Preponderance of evidence (this is what DHI/IMB uses)
- Beyond a reasonable doubt (criminal cases)



# What about “Internal Investigations”?

- What are internal investigations?
  - NMAC 7.1.14.8



# NO INTERNAL INVESTIGATIONS

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- **...beyond what is necessary to make an accurate report to DHI and keep people safe!**
- DO...
  - Find out as much as possible to keep individuals safe
  - Take any required action for medical care or making sure the environment is safe
  - Preserve evidence (pictures if needed); set aside what may be needed for DHI
  - Obtain clarity from a reporter on circumstances, or for more detail to identify the accused person

# Don't...

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- Talk to everyone involved
- Talk to the consumer about details
- Remove or move (alter) evidence
  - Progress notes
  - Medication bottles, MARs

# FOLLOWING THE INVESTIGATION: Notification of Investigation Results

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- **DHI will notify in writing:**
  - The provider
  - The guardian
  - Alleged victim
  - Case manager or consultant
  - DDSD Regional Office
  - The accused person



# Informal Reconsideration of Findings (IRFs)

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- 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 IMB Bureau Chief
  - Department of Health, Division of Health Improvement, 5301 Central Ave NE (suite 400), Albuquerque 87108
  - Written decision will be issued within 30 days of the review
  - 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**
  - One is the basis of this training! (NMAC 7.1.14)
- **The other two are:**
  - CCHS (Caregivers Criminal History Screening)
  - EAR (Employee Abuse Registry)

## CCHS (Caregivers Criminal History Screening)

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- Requires ALL applicants, caregivers (including hospital caregivers) to consent to a nationwide and statewide screening
- No later than 20 calendar days from the 1<sup>st</sup> day of employment
- Disqualifying felony convictions – **cannot** be employed or contracted as a caregiver

# EAR (Employee Abuse Registry)

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- What is it?
- When do employers need to check the EAR?
- What happens if you are referred to this registry?



## Important reminders

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- Immediate reporting
- Limited provider investigation
- IASP (Immediate Action and Safety Plan)
- Preserve evidence
- Notifying guardian, case manager, consultant – 24 hours
- If you are not the responsible provider: notify them
- **NO RETALIATION!**

# RETALIATION

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- What is it?
- Zero tolerance for retaliation when reporting without false intent

# Examples of retaliation

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- Termination of contract or employment
- Discrimination or disciplined
  - Shift change
  - Pay cuts, reduced hours
  - ...what else?

# CONFIDENTIALITY

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- WHAT IS IT?
  - 7.1.14.14
- The incident, the alleged victim's name, the reporting witness, and documents related to the incident will remain confidential
  - Caveat: legal cases and subpoenas can affect this
- Anonymity vs. confidentiality

Who is ready for the competency exam?!

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Can you repeat the part of the stuff  
where you said all about the things?

more awesome pictures at [THEMETAPICTURE.COM](http://THEMETAPICTURE.COM)

# POST-TEST

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- Any last questions or clarification?
- Review your notes and highlighted sections of the rule we talked about

# IT'S OVER!

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## THANK YOU FOR ALL YOUR HARD WORK!

- JENNY BARTOS (DHI Trainer) – [Jennifer.Bartos@state.nm.us](mailto:Jennifer.Bartos@state.nm.us)
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