

SafetyNetWorks

*Information for Elder-Adult-at-Risk and Adult-at-Risk Agencies
AAR Information Memo #1 June, 2007*

IN THIS ISSUE

Photographing Abuse, Neglect and Exploitation – Best Practice Recommendations for County Elder-Adult/Adult-at-Risk Agencies

BACKGROUND

Photographic evidence can provide effective and objective visual representation of injuries or environmental conditions observed when responding to a complaint or suspicion of self-neglect, neglect, abuse or exploitation. Photographs are a means of collecting and preserving evidence.

AUTHORITY

Wis. Stat. § 55.043(1r), states that “No person may be held civilly or criminally liable or be found guilty of unprofessional conduct for responding to a report or for participating in or conducting an investigation under this subsection, including the taking of photographs or conducting of a medical examination, if the response or investigation was performed in good faith and within the scope of his or her authority.”

USE

In situations where self-neglect, neglect, and/or abuse is suspected, photographic evidence may be used as a tool to supplement and enhance written documentation. Photographs are not intended to stand alone, without written documentation. Photographs “freeze” the evidence in time and may provide corroboration of observations and notes. It is important to remember that photographs may not need to be used in every case and consideration should be given to how the taking of photographs may affect trust building and an individual’s willingness to accept services.

Examples of situations when photographs are recommended include:

- Evidence of abuse such as contusions, bruises, lacerations or burns
- Evidence of improper and dangerous use of restraints or other devices
- Evidence of improper positioning such as leaning or hypo/hyper-extension of neck and/or trunk
- Physical condition of person related to care issues, e.g., pressure ulcers, unkempt clothing, and poor personal care
- Contractures
- Evidence of extensive pest infestation
- Evidence of faulty or dirty equipment
- Other situations where a photograph may help describe a situation or concern.

SPECIAL CONSIDERATIONS

1. Notify local law enforcement authorities of any situation where there is a potential criminal offense.
2. If sexual abuse is suspected, contact local law enforcement and a Sexual Assault Nurse Examiner (SANE), immediately. They will take necessary photographs as part of their investigation/examination.
3. It is acceptable to take pictures of an individual’s face and/or body parts (if necessary for evidence), excluding exposed breasts, rectal and genital areas. If pictures of exposed breasts, rectal and/or genital areas are necessary, it is recommended that a health care professional take the photos. If a health care

professional is not available within a reasonable period of time, and in your judgment, a delay in taking photos would diminish the evidence, contact your supervisor for guidance on how to proceed.

4. For criminal prosecution or other purposes, it may be necessary to coordinate the taking of the actual photos with other entities, such as law enforcement or health officers/agencies.

TAKING PHOTOS

When taking photos, it is important to remember that individuals have the right to be treated with dignity, respect and the right to privacy. The need for documenting the observed injury or environmental condition with a photograph should be explained thoroughly to the individual and questions answered, before taking any pictures.

It is recommended that you obtain written consent for taking photos from the individual.

- If the individual is unable to give consent (unresponsive, incompetent), and the individual's legal guardian is present, ask the guardian for written consent, unless the guardian is the one suspected of neglecting/abusing the individual.
- If an individual strongly objects to being photographed, the refusal should be respected.

Always use the utmost discretion when taking pictures of individuals. Expose only the area that needs to be photographed. Cover all other areas that do not provide any evidence to corroborate your observations.

Photos taken with either a 35mm or digital camera are recommended. If you are using a 35mm camera, use one, 12 exposure roll per individual.

The use of a digital camera allows the image photographed to be seen immediately. If the picture does not fully reflect the information you have intended, simply take another picture. Do not delete any pictures from the camera. All pictures taken need to be preserved and downloaded in order to prove chain of evidence.

It is recommended that each relevant object appear in at least three photographs: an ***overview***, a ***mid-range***, and a ***close-up***. The overview or "long-range" shot captures the entire person or area of concern; a "mid-range" shot captures a narrower region of the injury or area of concern; and a "close-up" shot captures a detailed image of the injury or area of concern. If possible, match the injury to the object.

- ***Overview:*** Because a close-up does not indicate where the object was located, the overview shot should cover the entire scene/environment to bring out the relationships between the objects. Leave measuring labels, rulers, and scales out of an overview photo.
- ***Mid-range:*** This shot shows a relevant object in its immediate surroundings.
- ***Close-up:*** The close-up photograph shows a key detail clearly. Have a "standard" in the close-up shot to indicate the actual size of what is being photographed. Measuring scales, labels, and rulers may be added to the close-up scene to accomplish this purpose, e.g., placing a ruler with readable graduations next to the wound will show its actual size in the photo. Other standards include coins, dollar bills, or pencils. If the ruler or scale covers the area of injury or concern, also take a close up picture without the ruler.

PRESERVING EVIDENCE

Chain of custody of the memory card or the camera itself is an important consideration when using a digital camera since digital photos can be easily altered, manipulated or enhanced. To reduce the possibility of evidence tampering, the camera and memory card should not leave the possession of the

photographer unless to bring them to a place of business for development. Inform the developers that the camera contains evidence that could be used for law enforcement purposes. It is illegal to alter, manipulate or enhance a digital picture obtained during an investigation.

DOCUMENTATION OF PHOTOGRAPHS

A photograph of an individual must be handled with as much confidentiality as a medical record. Only non-personal identifiers should be used to document the photograph. When preparing the report narrative, any photographs taken must be integrated into the narrative, rather than just referenced. A reference in the notes should be made of each photograph even if it did not portray the expected image so there will be a sequential reference to all photographs taken.

Immediately upon taking a photograph, the following should be documented:

- Date
- Time
- The identity of the photographer
- A photograph identifying number (even if just one photograph is taken)
- Location/Setting (e.g., home address)
- Non-personal identifier

Note: Many conventional cameras and digital cameras have the capacity to imprint a date and time on the photographic image.

Photographs must enhance—not replace—written documentation. The photographer should be able to recall, after referring to her/his notes, the following information:

- The object or situation that was being recorded
- Facts surrounding the photograph—where the photograph was taken
- Who took the photograph
- Purpose of the photograph
- Date and time of photograph

It is important that you do not modify an original photograph such as with an arrow pointing to a particular detail in the picture. If you want to stress a key detail in a photograph, you should identify the detail by using a transparent overlay that can be removed to show the unaltered print.

LABELING PHOTOS

Once developed, each picture needs to be labeled using a standard label attached to the back of the photo. Never write on the photograph. Include the following information:

- Date and time of photo
- Name of photographer
- Physical location and, if applicable, body part location
- Individual at Risk's name, if applicable
- Individual at Risk's date of birth, if applicable

QUESTIONS

If you have questions concerning the appropriate role of an elder-adult/ adult-at-risk agency in photographing individuals at risk, please contact Jane Raymond at StopAbuse@dhfs.state.wi.us or 608-266-2568.

CENTRAL OFFICE CONTACT: Jane Raymond
Bureau of Aging and Disability Resources
Division of Long Term Care
1 W. Wilson Street, Room 450
Madison, WI 53702
(608) 266-2568