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Connecting motivated investors to financial advisors nationwide

The determination to use the services or products of a Strategic Alliance member is an important decision and should not be based solely upon a member's participation in our Strategic Alliance Program. RIA Compliance Consultants is not affiliated with these Strategic Alliance members, does not control or supervise the services or products of the Strategic Alliance member and reference to these Strategic Alliance members does not mean that RIA Compliance Consultants has performed any level of due diligence on the Strategic Alliance member's services or products. As with any service provider, clients are urged to perform their own due diligence on the Strategic Alliance members listed on this page. Each registered investment adviser should perform its own independent investigation and evaluation to make sure that the Strategic Alliance member is the best fit for its firm.

RCC New Resources

SEC's 2020 Examination Priorities Webinar Recording

Recorded January 16, 2020

Available in Online Subscription Account.

Conflicts of Interest – Fixed Indexed Annuities – Sample Form

Available in Online Subscription Account to Bronze, Silver, Gold and Platinum Package Subscribers.

\$100 A la Carte

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Client Relationship Summary – Form ADV Part 3

Webinar Presented by Bryan Hill
Over 30 FAQs Pertaining to Form ADV Part 3
Form ADV Part 3 Drafting Service - \$595

<https://www.ria-compliance-consultants.com/form-adv-part-3-faqs/>

Investment Adviser Compliance Conference

August 26 and 27, 2020

Scott Conference Center, Omaha, NE

First 20 attendees pay \$395 for both days (use code
conference2020)

Standard Pricing \$495 for both days

Click [here](#) to register

Investment Adviser Compliance Conference Scholarship for College and Graduate Students

RCC will reward up to three scholarships for college students to attend our 2020 Investment Adviser Compliance Conference

Visit ria-compliance-consultants.com/conference for more details.

Elder Abuse - Resources

- Senior/Vulnerable Clients – Training (PowerPoint)
- Senior/Vulnerable Clients – Training Quiz
- WSP/CoE Section Update – Protecting Older and Vulnerable Clients with Diminished Capacity
- Senior/Vulnerable Clients – Client Authorization to Communicate with Trusted Emergency Contact

PRESENTATION AGENDA

- This presentation will have three following components to it:
 1. The Senior Safe Act
 - This section will cover regulatory history on the issue, major provisions of the act, and what is required for receiving immunity.
 2. Senior Financial Exploitation Training
 - This section will train employees on how to spot exploitation, common scenarios and perpetrators, how to talk to discuss sensitive matters with senior clients, how to create a trusted emergency contact, and how to report suspected exploitation internally and externally.
 3. State Regulations & Vulnerable Clients
 - This section will briefly go over state laws that also govern senior financial exploitation.
 - It will also go over issues advisers may see with vulnerable clients that don't necessarily meet the senior requirement under the Senior Safe Act.

Elder Abuse - Resources

- Senior/Vulnerable Clients – State Reporting Requirements
- Senior/Vulnerable Clients – Internal Reporting Form for Exploitation
- IAR – Diminished Capacity Checklist.



Annual Compliance Training

Document, Document, Document (Maintaining Books and Records)	General Firm Policies	Best Interest of the Client	Full Disclosure	Misc.
<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>200</u>	<u>200</u>	<u>200</u>	<u>200</u>	<u>200</u>
<u>300</u>	<u>300</u>	<u>300</u>	<u>300</u>	<u>300</u>
<u>400</u>	<u>400</u>	<u>400</u>	<u>400</u>	<u>400</u>
<u>500</u>	<u>500</u>	<u>500</u>	<u>500</u>	<u>500</u>

Reporting Elder Financial Abuse

Claire McHenry
Deputy Director – Securities Bureau
Department of Banking and Finance

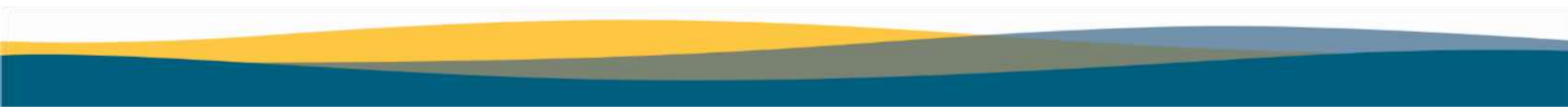
Toni Bonsera
APS Program Specialist
*Division of Children and Family Services
Nebraska Dept. of Health
and Human Services*

NEBRASKA
Good Life. Great Opportunity.

Disclaimer

Nebraska has provided this information as a service. It is neither a legal interpretation nor an indication of a policy position by Nebraska.

If you have questions concerning the meaning or application of a particular federal or state law or rule or regulation, or a NASAA model rule, statement of policy or other materials, please consult with an attorney who specializes in securities law.



ServeOurSeniors.org

Where to Turn for Help

Click on your state, province or territory to find contact information for helpful resources.

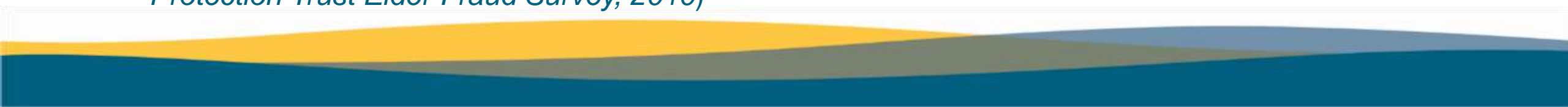


What is exploitation?

- Financial Exploitation (Neb. Rev. Stat. § 28-358)
 - Wrongful, unauthorized, unlawful taking of the assets or property of a *vulnerable adult* or *senior adult*
- Senior Adult (Neb. Rev. Stat. § 28-366.01)
 - Age 65+
- Vulnerable Adult (Neb. Rev. Stat. § 28-371)
 - Age 18+ with *substantial mental* or *functional impairment* or a *guardian or conservator* is appointed
- Criminal penalties for knowing and intentional financial exploitation (Neb. Rev. Stat. § 28-386)

BAD FINANCIAL DECISIONS ≠ FINANCIAL EXPLOITATION

How common is financial exploitation?

- Virtually all countries are expected to see substantial growth in the number of older persons between 2015 and 2030. (*United Nations Division for Social Policy and Development Ageing, 2017*)
 - Seniors are living longer, but not necessarily better. Alzheimer's disease, dementia and declining cognitive and physical functioning make elders more vulnerable to victimization.
 - One in 10 Americans age 60+ is a victim of elder abuse, neglect or exploitation (*National Council on Aging, 2017*).
 - Only one in every 23.5 cases of elder abuse is reported to any agency (*Lachs, Mark, Et al. (2011) Under the Radar: New York State Elder Abuse Prevalence Study Final Report*)
 - 37% of seniors report that they are currently being pitched by people calling or mailing them asking for money. (*Investor Protection Trust Elder Fraud Survey, 2010*)
 - One out of every five people over the age of 65 has been victimized by financial fraud. (*Investor Protection Trust Elder Fraud Survey, 2010*)
- 

Costs of Exploitation

- Elders will lose a minimum of \$2.9 billion annually due to financial abuse and exploitation. (The MetLife Study of Elder Financial Abuse, 2011)
- Elder financial abuse and fraud costs older Americans as much as \$36.5 billion per year. (NCOA, 2017)

Why report?

Community Benefits:

- Improved safety
- Promote goodwill
- Preserve client financial independence
- Promote cooperation between firms, APS, and law enforcement

Business Benefits:

- Demonstrate concern over client's well-being
- Preserve reputation
- Increased community recognition
- Empower employees
- Build office morale
- Good customer service

Regular contact puts YOU in a unique position to detect behavior changes and to assist in protecting clients before assets have been disbursed



It Can Happen to Anyone



Mickey Rooney, Testimony to Senate Special Committee on Aging, March 2, 2011

Brooke Astor and grandson, Philip Marshal



Red Flags

*Suspicious **BEHAVIOR** that could indicate cognitive challenges and be susceptible to fraud, exploitation, or abuse*

- Difficulty communicating with or understanding you (APS)
- Challenging behavior such as agitation, delusions, or inappropriate comments (APS)
- Wandering into your office or becoming lost in the building (APS)
- Frequent loss of financial records, checkbooks, credit/debit/ATM cards (APS)
- Difficulty expressing needs or desires regarding his/her affairs (APS)

Red Flags

Suspicious **BEHAVIOR** that could indicate fraud, exploitation, or abuse

- Person accompanying elder shows excessive interest in elder's finances or accounts, does not allow elder to speak, or is reluctant to leave the elder's side during conversation (SARs Red Flag)
- Elder shows an unusual degree of fear, anxiety, submissiveness, or deference towards person accompanying him or her (SARs Red Flag)
- Elder lacks knowledge about his or her financial status or shows reluctance to discuss financial matter (SARs Red Flag)
- Elder moves away from existing relationships and toward new associations with other "friends" or strangers (SARs Red Flag)

Red Flags

*Suspicious **BEHAVIOR** that could indicate fraud, exploitation, or abuse*

- You are unable to speak directly with the elder despite repeated attempts to contact him or her (SARs Red Flag)
- Elder displays unexplained or unusual excitement over financial windfall or prize check; may be reluctant to discuss details (BITS)
- Noticeable neglect or decline in appearance, grooming, or hygiene (APS)
- Sudden appearance of previously uninvolved relatives claiming their rights to the elder's affairs and possessions (BITS)

Red Flags

Suspicious **ACCOUNT ACTIVITY** that could indicate fraud, exploitation, or abuse

- A new caretaker, relative, or friend suddenly begins conducting financial transactions on behalf of an elder without proper documentation (SARs Red Flag)
- Abrupt changes to financial documents, such as power of attorney, account beneficiaries, wills and trusts, property title, and deeds (SARs Red Flag)
- Uncharacteristic nonpayment for services, which may indicate a loss of funds or access to funds (SARs Red Flag)
- Closing of accounts without regard to penalties (SARs Red Flag)
- Suspicious signatures (APS)

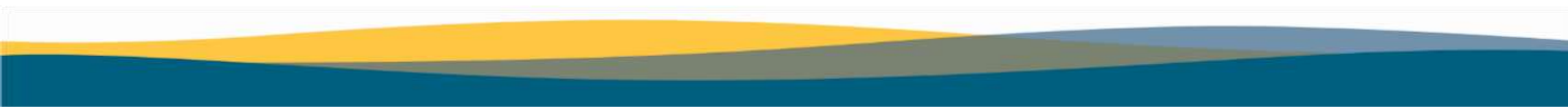
Red Flags

*Suspicious **ACCOUNT ACTIVITY** that could indicate fraud, exploitation, or abuse*

- Noticeable change in elder's established banking or financial management habits or patterns, including:
 - Frequent large withdrawals (SARs Red Flag)
 - Sudden NSF activity (SARs Red Flag)
 - Inconsistent transactions or uncharacteristic attempts to wire large sums of money (SARs Red Flag)
- Change of address on accounts to new recipient's address, especially when distant from elder's home (BITS)
- Large withdrawals from a previously inactive account or a new joint account or sudden appearance of credit card balances (BITS)
- Unexplained disappearance of funds or valuable possessions, such as safety deposit box items reported missing by elder (BITS)

Offer Safe Alternatives

- Suggest alternatives to large cash withdrawals and discourage wire transfers
- Make clients aware of ways to limit the risk of joint accounts
- Discuss lower-risk alternatives



Follow Internal Procedures

- Your firm should have written supervisory procedures, which should include reporting requirements.
 - A clear internal protocol ensures timely, efficient, and effective management of reports of suspicious behaviors.
 - Confidentiality requirements
 - Mandatory vs. voluntary reporting
 - Referral to other community resources
- Consider a temporary hold on the transaction/disbursement
 - FINRA Rule 2165 (Financial Exploitation of Specified Adults) (effective 2/5/18)
 - NASAA Model Act to Protect Vulnerable Adults from Financial Exploitation (enacted in 20 states)

Confidentiality Laws

- Prohibitions against sharing non-public personal information to non-affiliated third parties without client consent
 - Gramm Leach Bliley, 15 U.S.C. § 6802
 - SEC Regulation S-P
 - Investment adviser rule under the Securities of Act of Nebraska, 48 NAC 12.006.13
- Disclosure always permissible with consumer consent
- FINRA Rule 4512 (Customer Account Information) (effective 2/5/18)
 - Reasonable efforts to obtain the name and contact information of a trusted contact
- Senior\$afe Act (S. 2155, Section 303) (enacted 5/24/18)
 - Immunity from liability to certain financial institutions and certain employees who in good faith and reasonable care, disclose suspected exploitation of a senior citizen to a regulatory or law enforcement agency. The act addresses training requirements and provides guidance.

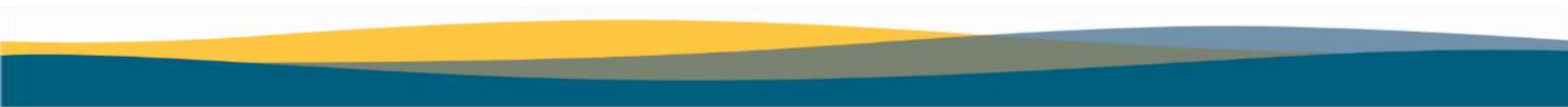
Federal Reporting

- Suspicious Activity Reports

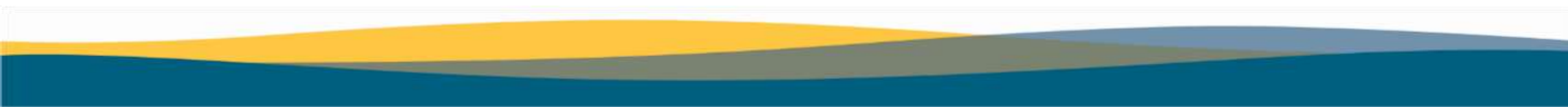
- Mandatory reporting requirement for financial institutions (including broker-dealers)
- Includes instances of “elder financial exploitation”
- Narrative needs to include sufficient information to establish that the person is a vulnerable adult and describe what happened

- **SARs filings are not a substitute for local reporting and investigation**

- Continue to report all forms of elder abuse according to your firm’s policies, as well as requirements of state and federal law



Nebraska APS Reporting

- Financial professionals are not mandatory reporters to APS in Nebraska
 - No rule of evidence or other provision of law concerning confidential communications shall apply to prevent reports made pursuant to the Adult Protective Services Act unless otherwise specifically mentioned in the act (Neb. Rev. Stat. § 28-382)
 - Reports made to APS will be kept confidential (Neb. Rev. Stat. § 28-385)
 - Persons who report or assist in an investigation are immune from liability (Neb. Rev. Stat. § 28-375)
- 

Adult Protect Services

- Nebraska Department of Health and Human Services - Adult Protective Services

dhhs.childrenandfamilyservices@nebraska.gov

www.dhhs.ne.gov

Nebraska Adult and Child Abuse and Neglect Hotline: 1-800-652-1999

- A reasonable belief is enough to report financial exploitation.
- **If you are in doubt, call APS!** APS will determine whether the senior needs assistance, and if not, APS may refer the senior to the appropriate local resources.
- Report **every time** there is suspected exploitation or abuse, regardless of whether the customer has refused help in the past

Accepted APS Intakes

- In Nebraska in 2018 there were 2,286 APS Intakes accepted for investigation:
 - APS reports represent 14% of all calls to the Nebraska Abuse and Neglect Hotline;
 - The highest number come from the Eastern Service Area (831);
 - Approximately 20% of all reports to the Nebraska Abuse and Neglect Hotline involving an adult are accepted for investigation.

2018 APS Hotline Intakes Accepted

Type of Report	Total Assessed	# Substantiated	% Substantiated
Neglect	1,077	57	5%
Self-Neglect	989	184	18%
Financial Exploitation	751	135	17%
Physical Abuse	253	16	6%
Sexual Abuse & Exploitation	94	9	10%

Why not accept EVERY report for investigation..?

Nebraska Adult Protective Services

Nebraska Revised Statutes § 28-348 through 28-387

Elder Abuse or Neglect

vs.

Abuse or Neglect of a Vulnerable Adult

- In Nebraska, alleged elder abuse in itself does not automatically warrant Adult Protective Services interventions.
- In Nebraska, cases of elder abuse are investigated by law enforcement, not APS

- In Nebraska, for APS to become involved, the victim must meet the definition of a ***vulnerable adult***.
- Reports of elders who may be abused, but who do not meet the definition of a vulnerable adult, are not eligible for APS services.
- Community referrals, law enforcement, and other legal remedies are sought.
- *EVERY* report to the Hotline is shared with Law Enforcement.

Victim of Fraud ≠ Vulnerable Adult

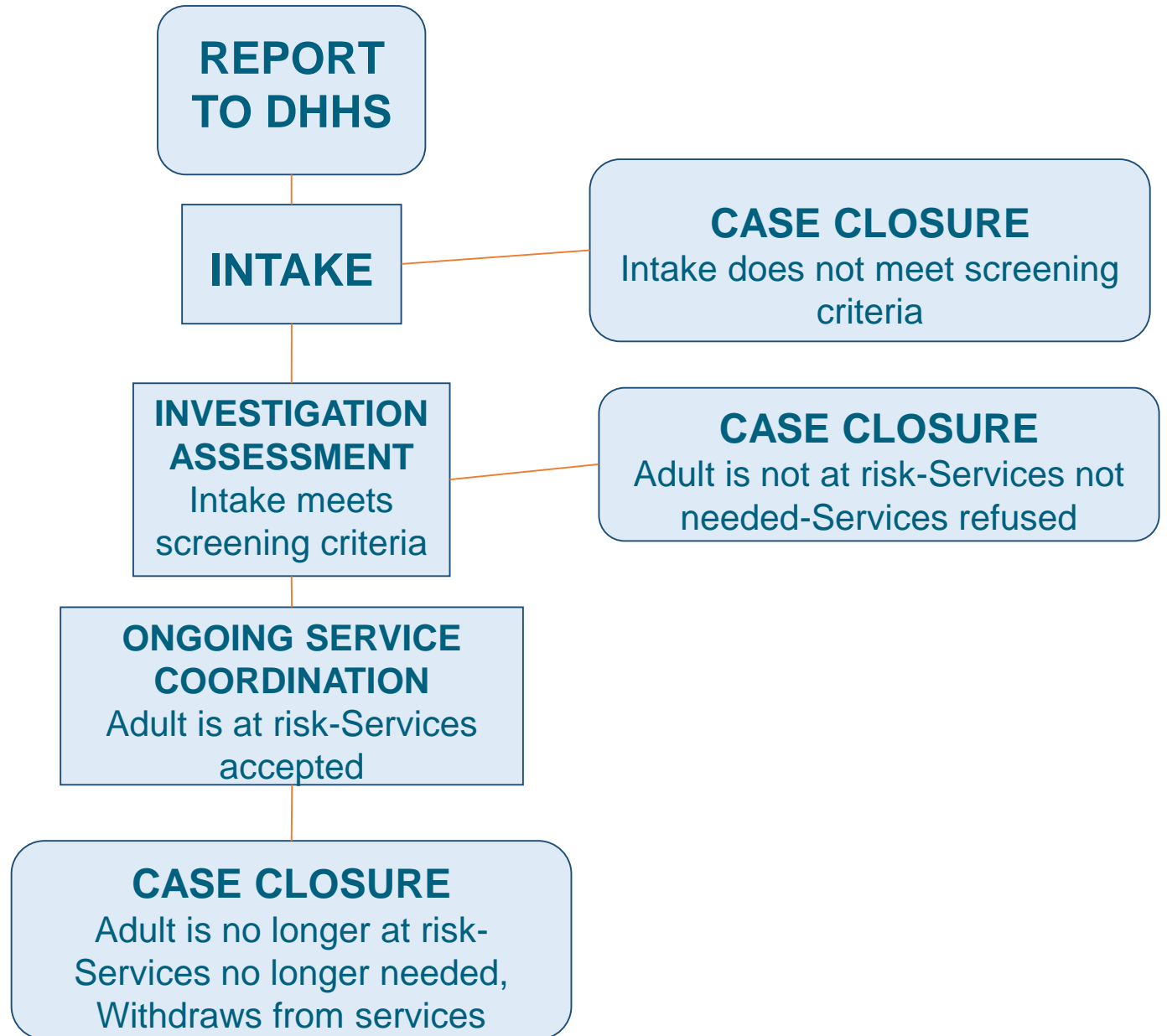
What to Report to the Abuse and Neglect Hotline

- The name, address and age of the adult
- Any information or observations regarding the individual's cognitive functioning
- The name(s) and address of caregiver(s)
- The nature and extent of the alleged abuse or neglect circumstances
- Any evidence of previous abuse
- Any other information that would be helpful in establishing the cause of alleged abuse
- The identity of alleged perpetrator, if known

What happens next..?

APS Flowchart

Abuse/Neglect Hotline:
1-800-652-1999



APS Worker Investigation Activities

What APS **Can** Do:

- Investigate reports of abuse/neglect/exploitation, including self-neglect
- Provide information to the County Attorney
- Assist Law Enforcement in investigations
- Request court orders for involuntary services
- Make service referrals to the community
- Assist with arranging for needed items like food, clothing, utilities, shelter, medications
- Assist with arranging services for caregivers and family members such as respite, Developmental Disability services, Aging services

What APS **CANNOT** Do...

- Become guardian of a person or conservator of an estate
 - Remove someone from their home without a court order
 - Force someone with capacity to accept services
 - Be a guardianship program for communities
 - Place an individual in an alternate living arrangement without their agreement or a legal representative's agreement
 - **Become involved if there is no abuse/neglect/exploitation, including self-neglect, or if the person is not vulnerable**
- 

Law Enforcement

- **Call 911** if you believe that someone is in immediate danger
- Local polices, sheriff, or other law enforcement
- Non-emergency reports should be limited to very basic information:
 - Name, age (estimate), address, and telephone number of the victim.
 - Full description of the suspect (if known).
 - Description of the incident.
 - Location of the incident.
 - Description of suspect's car and license plate number (if known).

Securities Regulator

- Nebraska Department of Banking and Finance, Bureau of Securities
 - (402) 471-3445
 - (877) 471-3445
 - www.ndbf.nebraska.gov
- Securities and Exchange Commission
- FINRA
- If it doesn't involve a security – refer to appropriate agency and/or community-based resources
- If it does involve a security
 - Conduct an investigation
 - Pursue administrative, civil, or criminal remedies under the Securities Act of Nebraska
 - Possibly refer to community-based support or resources

Community-Based Services

- A referral to these services requires your client's consent. (As required by GLBA)
- Ways to still provide the information:
 - Provide contact information of service
 - Contact service provider jointly with the senior
 - Contact service provide and get information to pass on (without providing specific details)

- Legal Aid of Nebraska

www.legalaidofnebraska.org

(877) 250-2016

- Area Agency on Aging

Depends on the location

Nebraska agency information available through DHHS

<http://dhhs.ne.gov/Medicaid/SUA/CurrentAAAandADRCMap.pdf>

Community-Based Services

- Domestic violence and sexual assault
 - Contact law enforcement
 - Contact a support center (with consent)
 - National Domestic Violence Hotline:
1-800-799-SAFE (7233)
 - National Sexual Assault Hotline:
1-800-656-HOPE (4673)
 - Nebraska's Network of Domestic Violence/Sexual Assault Programs
https://www.nebraskacoalition.org/get_help/

Reporting and Referral Contacts

Any adult in immediate danger: 911

With or without consent (Reporting):

- Adult Protective Services
1-800-652-1999
- Local Law Enforcement
- Nebraska Department of Banking and Finance
402-471-3445
877-471-3445
- Securities Regulators
FINRA, SEC, NASAA

With consent (Referring):

- Legal Aid of Nebraska
www.legalaidofnebraska.org
877-250-2016
- Nebraska Area Agency on Aging
[http://dhhs.ne.gov/Medicaid SUA/Current AAA and ADRC Map.pdf](http://dhhs.ne.gov/Medicaid_SUA/Current_AAA_and_ADRC_Map.pdf)
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Questions?

