The Nurse's Role in Elder Abuse: Building Stronger Court Cases

Presenters
Candace Heisler, JD
Trisha Sheridan, DNP

Disclosure

- The planners, presenters, and content reviewers of this course disclose no conflicts of interest.
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- The International Association of Forensic Nurses is accredited as a provider of continuing nursing education by the American Nurses Credentialing Center's Commission on Accreditation.

Objectives

- Understand the role of the nurse and the elder abuse forensic medical examination
- Describe common medical findings in elder abuse cases
- Differentiate abuse and neglect from other causation
- Preparing the nurse for testimony

Definitions

- What is a nurse? Training, expertise, authority
- What is a Forensic Nurse? A nurse who provides specialized care for patients who are victims and/or perpetrators of trauma (both intentional and unintentional)
- What is the difference between nursing and forensic nursing
- Sexual Assault Nurse Examiner (SANE)– Elder abuse is in their scope of practice

National Standards

The **Top Five Priorities** critical to understanding and reducing elder abuse and to promoting health, independence, and justice for older adults, are:

1. **Awareness:** Increase public awareness of elder abuse, a multi-faceted problem that requires a holistic, well-coordinated response in services, education, policy, and research.
2. **Brain health:** Conduct research and enhance focus on cognitive (in)capacity and mental health – critical factors both for victims and perpetrators.
3. **Caregiving:** Provide better support and training for the tens of millions of paid and unpaid caregivers who play a critical role in preventing elder abuse.
4. **Economics:** Quantify the costs of elder abuse, which is often entwined with financial incentives and comes with huge fiscal costs to victims, families and society.
5. **Resources:** Strategically invest more resources in services, education, research, and expanding knowledge to reduce elder abuse.

https://www.justice.gov/file/852831/download

Goals of the Forensic Medical Examination

- Health Care Focus
- Patient Centered
- Trauma Informed
- Avoids Re-Victimization
- Treat Injuries
- Documentation/Photo documentation of assault and injury
- Collection of Evidence
- STI education and prophylaxis
- Emergency contraception

Before the Forensic Medical Exam

- Medical Screening Exam
- Safety – life saving measures first
- Consent vs. Assent

Steps to the Exam

- History
- Head to toe physical
- Anogenital exam – if needed
- Collection of Evidence
- Documentation- photo documentation
- Discharge planning and referral(s)

Building Partnerships

- It is VITAL to the patients/victims that both the forensic nurse and prosecutor's office have a partnership and share common goals
  - Train one another and review cases together to identify strengths and potential weaknesses
- Train the local providers to do exams in a way that is patient centered
- What is "trauma informed"

Common Issues

What are some common issues that we face when preparing these cases?

Identifying Injuries Caused by Abuse

- Location and pattern of injuries
  - Bilateral, multiple body planes
  - Patterned
- Presence of risk factors that increase the severity of minor injury (osteoporosis with fracture, cerebral atrophy with subdural hematoma, senile purpura, blood thinners)
- Is the person combative (agitation, mobility, gait)
- Medications

Bruise Study in Older Adults

- Bruises cannot be reliably aged by color
- Accidental bruises occur in predictable location, pattern
  - Nearly 90% of bruises on the extremities
  - **No injuries** on neck, ears, genitalia, buttocks, soles
- Multiple bruises associated with anticoagulation medication and persons needing help with ADLs
  - No difference in the location, size, or color of the accidental bruises between such persons and other seniors in the study
- Mosqueda, L., Burnight, K., Liao, S. (2005)

Bruising Due to Abuse Study Wiglesworth et al, 2009

In **confirmed** cases of physical abuse,

- 72% had bruises within 30 days of injury
- Physically abused older adults had significantly larger bruises than those in comparison group who were not abused & more knew the cause of their bruises
- Physically abused older adults more likely to have bruises on face, lateral aspect of right arm & posterior torso than older adults from an earlier study who had not been abused

Concerns: Injuries to Both Sides of the Body

- **SHOULDERS**
  - Shaking, grabbing, restraining
- **INNER ARMS**
  - Grabbing restraining
- **INNER THIGHS**
  - Sexual abuse
- **SCALP*EARS*BUTTOCKS**
  - Ongoing, chronic abuse

Accidental Injuries

REMEMBER:

ACCIDENTAL INJURIES TYPICALLY:

- Involve bony prominences
- Match the history/story

- **Are in keeping with the physical and mental capabilities of the adult**

Summary

- **CONCERNS ARE RAISED WHEN:**

- Injuries to both sides of the body
- Injuries to soft tissue
- Injuries with particular patterns
- Any injury that doesn't fit the explanation
- Implausible explanations
- Delay in presentation
- Untreated injuries/conditions

Strangulation and Suffocation

- Occur across the lifespan
- Can result in death in older adult when would have survived in younger life
  - Underlying medical conditions
  - Less able to recover
- Subtle and may go undetected

Strangulation

- Pressure placed on the neck reducing/stopping blood flow through the neck or constriction of breathing through the airway of the throat

Suffocation

- Obstruction or restriction of breathing by external mechanical forces
- Preventing air from entering air passages by external pressure (Smothering)
    - Sealing off the mouth and nose by manual compression Covering the mouth and/or nose with hands, pillow, or plastic bag
    - Preventing lungs from expanding to take in air by external compression on the chest or abdomen (compression)

Injury During Strangulation

- External signs of strangulation are **absent** in over half of all victims, even when examined by skilled medical personnel alerted to the possibility of strangulation injury

Death can occur without any external marks at all

Petechiae

- A form of bruising that results from rupture of capillaries from blunt impact or from an increase in internal capillary pressure (i.e. strangulation, coughing, vomiting)
- Sometimes observed in living patients; but nearly always observed at autopsy
- If caused by strangulation or suffocation, associated with a near-fatal experience
- Found anywhere above where pressure applied in strangulation

Suffocation Signs and Symptoms

- Skin abrasions (scratch marks, fingernail marks) and petechiae just over the face in strangulation, or generalized in the skin in suffocation
- Abrasions over nostrils
- Lip incised abrasions where lips are pushed against teeth

Injury in Suffocation

- Many cases will have no injury
- If the victim is impaired by severe natural disease, or intoxicated, or physically restrained, then suffocation may leave no physical marks
- If the patient does not have teeth lip injuries are not likely
- Suffocation done with a medical device, e.g., obstruction of an endotracheal tube or turning off a ventilator, leaves no findings

Self Neglect vs. Caregiver Neglect

- Situations in which an older person is no longer willing or able to provide basic care for self
  - Form most often reported to Adult Protective Services ("APS")
  - Often an underlying medical condition
  - Common defense in caregiver neglect cases
  - Is there a caretaker with a duty of care?

Neglect Indicators

- Lack of assistive devices such as hearing aids, glasses, etc.
- Bedsores, skin disorders
- Poor hygiene, soiled clothing, soiled bedding
- Untreated health conditions/injuries

Pressure Ulcers

- Localized areas of tissue damage caused by excess pressure, shearing, or friction forces that occur in people who do not have the ability to reposition themselves in order to relieve pressure on bony prominences
- Also known as *decubitus ulcers* or *bedsores*

Risk assessment tools for the prevention of pressure ulcers
(ZEH Moore, S Cowman, *Cochrane Database of Systematic Reviews* 2007 Issue 3)

Pressure Ulcers Indicative of Neglect (Collins, K.A., 2006)

1. Multiple locations
2. Failure to treat
3. Failure to provide nourishment to allow healing
4. Lying in urine and feces speeds up skin breakdown
5. Predisposition to fecal and urinary incontinence
6. **These wounds should be photographed, diagramed and measured.**

Not always curable. Always treatable.

Pressure Ulcers

- Occurs with immobility, pressure on bony area, malnutrition, moisture
- 4 stages – size, location, appearance, odor
  - Unstageable

Pressure Ulcers

- Can be indicative of neglect, **BUT**
- Can occur even with good care
- May be outcome of disease process
- Issues
  - Turning and moving
  - Mattress and other devices that reduce pressure
  - Care when detected—healing, medication, treatment

Forensic Findings

- Location of pressure ulcers
- Number of pressure ulcers
- Setting where elder sustained pressure ulcers
- Elder's condition & need for care provider
- Was care provided
- Prompt seeking of medical care
- Dehydration and malnutrition
- Other care and hygiene (nails, bathing)
- Medical history and comorbidities

Confounding Situations

May lead to incorrectly labeling something as caused by abuse (“false positive”) or mistaking something caused by abuse as not abuse (“false negative”)

Confounding Situations: Purpura

- Exaggerated contusion or bruise in skin, most often on hands, forearms, and shins
- The bruise is from trauma, but its' exaggerated appearance is caused by age-related deterioration of the collagen in the skin
- Worse in people who also have malnutrition, chronic edema from congestive heart failure, and poor hygiene
- May be large bruises around medical skin puncture sites

Distinguishing Purpura

- Location
- No swelling or pain
- Abrasion
- Center clearing
- Predisposing conditions

Preparing the Case

Inexperienced Nurse Examiner

- Non trained provider
- Non certified provider
- Never performed this type of exam before
- Not the proper equipment/use of equipment

How do we compensate for these things?

Experienced Nurse Examiner but…

- Inexperienced with testifying
  - Someone may be a great nurse, and terrible at testifying
  - Ask for help—make sure attorney knows you are inexperienced
  - PREP PREP PREP the nurse before hand
  - Attorney should help the nurse understand what questions they may get asked

Types of Testimony

- Make sure the nurse knows what type of witness they are for purposes of this case
  - Fact Witness
  - Expert Witness
  - Both

Make Sure the Nurse Knows…

- Materials nurse has been asked to review, has reviewed
- Scope of testimony
- What is “out of bounds”

Prosecutor Not Understanding the Forensic Exam

- Not understanding what they should be looking for as far as good/bad exam
- Not understanding what issues may come up at trial
- Not understanding what good and bad things contained in record

- **Nurse can help prepare the prosecutor – charging, jury selection, trial, cross examination of defense expert, your direct and cross examination, argument to jury**

Review Tips: Effective Testimony

- Dress professionally (discuss what is local preference—scrubs, business wear)
- Be prepared, review your documentation thoroughly in advance
- Determine if you will be permitted to have your file or notes with you on stand
- Listen carefully, pause to think before answering
- Answer question you are asked **not the one you wanted to be asked**.
- Make eye contact – look at jury at least from time to time
- Maintain good posture
- Avoid using terms like always, never, 100%
- Remain objective and neutral for both direct and cross

Overcoming Trial Issues

- Nurse expert can
  - Help by explaining to the jury that a finding (or its absence) is common – going beyond just this case
    - Absence of findings
    - Inconsistencies in documentation because of how individuals chart
    - Proper handling of immobile patients
  - Nurse should be familiar with leading stats, as well as drawing from own experiences from exams they have done

Resources

- Mosqueda, L., Burnight, K., Liao, S. (2005) “The Life Cycle of Bruises in Older Adults” Journal of the American Geriatrics Society 53,1339-1343, (Supported by NIJ grant 2001-IJ-CX-K014)
- Wiglesworth, Austin, Corona, Schneider, Liao, Gibbs, & Mosqueda, MD (2009) “Bruising as a Marker of Physical Elder Abuse” Journal of the American Geriatrics Society, 57:1191–1196

Questions

- Trisha Sheridan

Trisha.Sheridan@Emory.edu

- Candace Heisler

cjheisler@aol.com