

## *Perspectives on Elder Abuse in the Digital Age*



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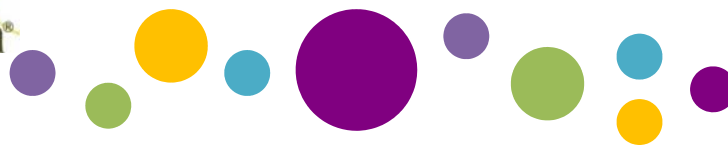
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*This presentation contains  
disturbing information.*



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## What we will discuss today

Aging: statistics & growing vulnerabilities/concerns

Social media: overview, uses & abuse potential

Current policies/laws/regulations, including gaps

What can be done to prevent abuse?

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## Aging Statistics



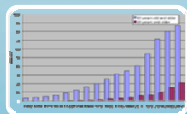
A baby boomer will turn 65 years old every seven seconds for the next 20 years



There are now more people over 65 in our population than there are teenagers



By 2030, 20% of people over 85 will reside in nursing homes. All the boomers will be over 65, and 4% - 5% of them will already reside in nursing homes



Over the next 25 years, the elderly population will increase by almost 80% due to aging baby boomers

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## Longevity includes risks & burdens!



After age 85, only one person in twenty is still fully mobile.

Roughly half of older adults over age 85 will develop some form of major cognitive impairment (dementia).



One's vulnerability to being victimized grows as frailty increases.

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## Who is a vulnerable adult?

A person 60 years of age or older who lacks the functional, physical, or mental ability to care for him or herself;

An adult with a developmental disability per 71A.10.020;

An adult with a legal guardian per 11.88 RCW;

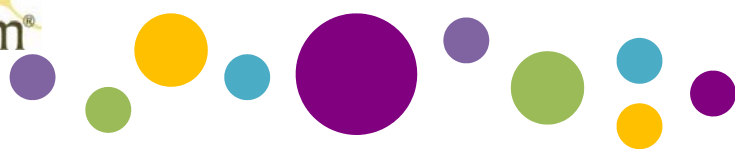
An adult living in a long-term care facility (an adult family home, boarding home or nursing home);

An adult living in their own or family's home receiving services from an agency or contracted individual provider; or

An adult self-directing their care per law (74.39.050 RCW) .

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# The digital age

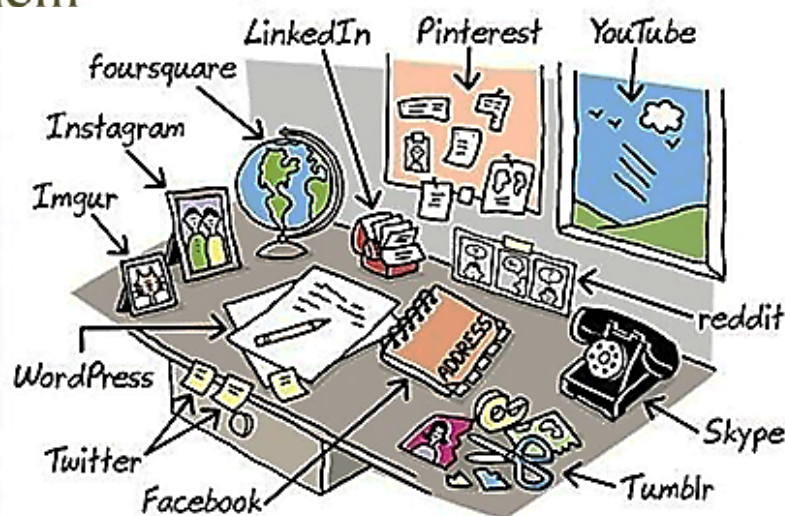


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## vintage social networking



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## What is social media?

*Web-based communication tools that enable people to interact with each other by both sharing and consuming information.*

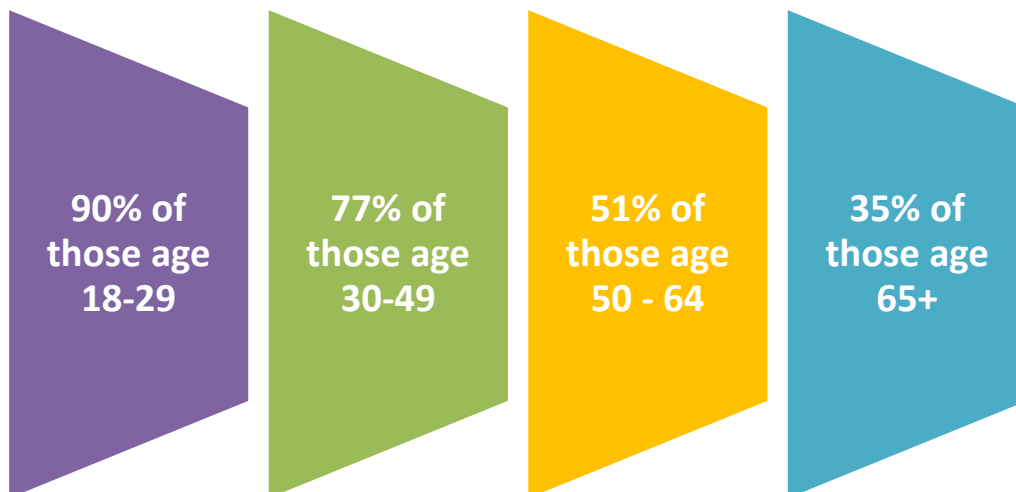
<http://webtrends.about.com/od/web20/a/social-media.htm>

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## Social Media Use: 65% of adults use social media




~ Pew Research Oct 8, 2015

<http://www.pewinternet.org/2015/10/08/social-networking-usage-2005-2015/>

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aging wisdom® The digital age... Smart phones




- E-mail
- Text messaging
- Camera
- Video recorder
- Apps, social media & web access

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aging wisdom® Some popular social media sites




**Facebook** Considered to be synonymous with “social media” Facebook is mainly centered around sharing photos, links, and quick thoughts of a personal nature.



**Snapchat** Ability to take a picture, add art and text if you’d like, and then send it to recipients for a set amount of time (after which the photo will delete itself and be removed from the company’s servers).

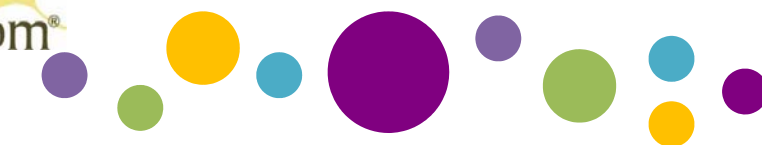


**Instagram** Quick, convenient connection between the camera feature on your smart phone and social profiles. Allows you to share via Twitter, Facebook, and the Instagram website.



**Tumblr** Hosts microblogs for its users. Blogs can be filled with multimedia (like images and short video clips).

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## *Abuse in the digital age*



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### Kitsap Sun – Bremerton, Washington: 2009-10

**BREMERTON — January, 2010**

Three employees of Kitsap Health & Rehabilitation Center have been fired amid allegations that they **took nude cell phone pictures of residents**. The state Department of Social and Health Services is investigating.

Nursing home administrators reported the alleged abuse to the Bremerton Police Department on Jan. 27. Staff members there said in written statements said the suspects showed the pictures to other staff members as a joke some weeks ago.

One suspect, a 41-year-old Retsil resident who is a licensed practical nurse, told Bremerton police he and the two other suspects had **sent “funny” pictures of residents to each other** — for example one of a resident sticking out his tongue — but denied having taken inappropriate photos.

The suspect said someone (he said he didn’t know who) had sent him a **photo of a resident of unknown gender bending over with naked buttocks showing**. He reported deleting the image and telling the other two suspects not to send any more cell phone pictures of residents.

The pictures were taken around Christmas, the suspect said. He said he has deleted all photos of residents.

Witnesses also reported seeing other photographs.

The nursing home administrators said **residents involved were not aware the photos had been taken. All but one have severe dementia**.

The other suspects are women, ages 26 and 27, both nurse aides from Bremerton. All three employees at first were suspended and later fired. The three have been reported to a medical panel for review of alleged violations.

2010 Kitsap Sun

Read more: <http://www.kitsapsun.com/news/2010/feb/08/employees-of-bremerton-nursing-home-employees/#ixzz25MVn8Fhs>

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**aging wisdom** ProPublica investigation - 47 incidents since 2012.  
*Details come from government inspection reports, court cases and media reports.*

Boundary violations

- Posting pictures on social media showing residents' hand/feet/face to illustrate fondness for resident and/or the job.
  - "I am holding her hand till she falls asleep."
  - "This is why I love my job." (picture holding resident's hand)
  - "This is my friend." (picture of disabled resident)
  - Selfies of staff and residents showing positive interactions.
- Images of staff w/identifiable resident information visible
- Positive memorializing – picture of residents after a death

Mocking/humiliating

- Being taunted/mockled/harassed by staff/visitors
- Pulling hair, passing gas in victim's face
- Racial slurs, foul language directed towards victim
- Residents vomiting, urinating
- Videos of confused/disoriented residents: coaching residents to repeat words from rap songs on video, asking confused residents about the resident's sex life and if the resident used marijuana
- Posting images of deceased residents

<http://tinyurl.com/jfamaj6> [www.agingwisdom.com](http://www.agingwisdom.com) 15

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*Details come from government inspection reports, court cases and media reports.*

Nude/Partially Nude

- Residents covered w/fecal matter
- Images while residents are being changed
- Undergoing procedure/examination
- While on the toilet or in shower/bathtub
- Carrying partially clothed resident over the staff member's shoulder

Physical & Sexual

- Plot to pay others to rape victims with severe dementia in a memory care facility while videotaping encounter
- Dancing in front of victim in sexually provocative way
- Sexually explicit photos (showing genitals), filming intimate encounter w/another resident, posing residents in a sexually explicit manner
- Physical assault: slapping, hitting, kicking resident's wheelchair and laughing

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## Legislative Activity

- Senator Charles Grassley, who chairs the Senate Judiciary Committee, sent letters to social media companies and federal agencies asking what they are doing to stop the abuse.
- **Snapchat's** online tool for reporting suspected abuse **requires the affected person to file a complaint (no third party reports)**.
  - When an individual tries to report a safety concern on behalf of someone else (like a vulnerable adult), Snapchat's message reads: **'We are unable to take action based on third-party reports.'**
  - Grassley wrote to Snapchat on June 28, 2016: *"An elderly nursing home resident victim is unlikely to have his or her own Snapchat account or have the knowledge or ability necessary to report abusive snaps on his or her own behalf."*

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## Legislation

- **State Abuse laws**
  - Iowa's dependent abuse law failed to protect victim
    - A resident was photographed by a certified nurse's assistant with his pants around his ankles and legs and hands covered in feces – the law did not cover this demeaning act (and it was not considered abuse) since the image did not show the resident's genitals. Officials are now working to update the law.
  - Are there other states with similar gaps in legislation?
- **HIPAA**
  - It is unclear if HIPAA laws have been utilized so far in these cases (Grassley has requested an accounting of this by the OCR)
  - Office of Civil Rights stated it intends to issue guidance with respect to HIPAA and the use of social media.
- **OBRA 1987 – CMS** enforces regulations through surveys (See recent CMS guidelines)
- **Under the Affordable Care Act**, CMS is responsible for enforcing the Elder Justice Act in nursing care centers. The EJA requires reporting of a crime against residents.

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## WA - RCW 74.34 Abuse of Vulnerable Adults Definitions

- (2) "**Abuse**" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. **In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish.** Abuse includes sexual abuse, mental abuse, physical abuse, and personal exploitation of a vulnerable adult, and improper use of restraint against a vulnerable adult which have the following meanings:
  - (a) "**Sexual abuse**" means any form of nonconsensual sexual conduct, including but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, **sexually explicit photographing, and sexual harassment.** Sexual abuse also includes any sexual conduct between a staff person, who is not also a resident or client, of a facility or a staff person of a program authorized under chapter 71A.12 RCW, and a vulnerable adult living in that facility or receiving service from a program authorized under chapter 71A.12 RCW, whether or not it is consensual.
  - (b) "**Physical abuse**" means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, or prodding.
  - (c) "**Mental abuse**" means a willful verbal or nonverbal action that threatens, **humiliates, harasses, coerces, intimidates, isolates, unreasonably confines, or punishes** a vulnerable adult. Mental abuse may include **ridiculing, yelling, or swearing.**
  - (d) "**Personal exploitation**" means an act of forcing, compelling, or exerting undue influence over a vulnerable adult **causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior,** or causing the vulnerable adult to perform services for the benefit of another.

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## WA - Voyeurism (RCW 9A.44.115)

(2) A person commits the crime of voyeurism if, for the purpose of arousing or gratifying the sexual desire of any person, he or she knowingly views, photographs, or films:

(a) **Another person** without that person's knowledge and consent while the person being viewed, photographed, or filmed is in a **place where he or she would have a reasonable expectation of privacy;** or

(b) **The intimate areas of another person** without that person's knowledge and consent and under circumstances where the person **has a reasonable expectation of privacy,** whether in a public or private place

- *"Intimate areas" means any portion of a person's body or undergarments that is covered by clothing and intended to be protected from public view;*

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## New CMS Guidelines - August 2016

### **Title Protecting Resident Privacy and Prohibiting Mental Abuse Related to Photographs and Audio/Video Recordings by Nursing Home Staff**

Memo # 16-33-NH Posting Date 2016-08-05 Fiscal Year 2016

#### ***Freedom from Abuse:***

Each resident has the right to be free from all types of abuse, including mental abuse. **Mental abuse includes, but is not limited to, abuse that is facilitated or caused by nursing home staff taking or using photographs or recordings in any manner that would demean or humiliate a resident(s).**

#### ***Facility and State Agency Responsibilities:***

This memorandum discusses the facility and State responsibilities related to the protection of residents. Specifically, at the time of the next standard survey for both the Traditional survey and QIS, **the survey team will request and review facility policies and procedures that prohibit staff from taking, keeping and/or distributing photographs and recordings that demean or humiliate a resident(s).**

<http://tinyurl.com/juzm2zu>

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## *Stopping abuse*



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aging wisdom® What can we do?

- Regular education and discussion about elder abuse
- Supervision/oversight of staff
- Organizational culture - Promoting mutual respect & professional boundaries
- Org policies & procedures updated to reflect current social media issues
- Training and interactive discussions with staff
- Staffing properly, address burnout, provide support to team
- Identify and report abuse!
- Advocate for changes in laws & social media company policies

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aging wisdom® Professional Boundaries Defined

A boundary refers to the framework in which the worker client relationship occurs:



Professional conduct



Physical & emotional behavior



Time parameters

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aging wisdom  Questions to ask yourself ...



Whose interests does this serve?



How would this be viewed by the client's family?



What will it look like on the front page of the newspaper?




What will my boss think of my behavior?



What could go wrong?  
What's the worst case scenario?



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aging wisdom  **Training:** *Identify possible boundary issues and describe what you should do.*

You discover family members of a resident you care for are on several social media sites you use. You'd like to connect with them.

A family member of a favorite client asks you to be friends on Facebook.

You had a crazy day with a very difficult family. You decide to talk to your friends on Facebook about your frustrations. You don't provide any names but you post a story about your day and receive support from your friends.

You like to take photos of your clients with your phone. Your clients' families love to see them, especially because they show how happy their loved ones are. Your own family also enjoys hearing about the great work you are doing. You sometimes want to share these photos with them.

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Stop abuse by reporting!

Statewide Hotline  
866-END-HARM  
(866-363-4276)

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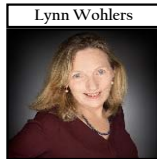
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