Tools for Addressing Elder Financial Exploitation in Rural Areas

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About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living’s Administration on Aging.
Justice in Aging
Fighting Senior Poverty Through Law

• Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources.

• Since 1972 we’ve focused our efforts primarily on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency.
About Maine Office of Securities

The Maine Office of Securities protects Maine investors by investigating and prosecuting, administratively and criminally, violations of Maine’s securities laws. Our mission includes the licensing and regulations of broker-dealers and their agents, investment advisory firms and their representatives and overseeing the registration of securities sold in Maine.

The Office is an active member of the Maine Council for Elder Abuse Prevention, a public private collaboration committed to ending elder abuse in Maine.
Key Lessons

• Elder financial exploitation is a growing issue.
• Collaboration and cooperation are key to preventing, recognizing, and mitigating the effects of abuse.
• Civil legal aid plays a role in achieving access to justice for older adults who have experienced maltreatment.
• Engaging with the community and building networks are key to addressing elder financial exploitation in rural and underserved areas.
Civil Legal Aid: Needs & Challenges
Legal Needs of Households in Rural Areas

75% Had at least one legal problem in a year period

23% Had 6+ legal problems in a year period

Financial Exploitation

• 1 in 10 older adults experience financial exploitation.

• Financial exploitation is the most common form of elder abuse
  • May have both criminal & civil remedies
  • Many older adults will also need supportive services

• Older adults in rural areas may be at higher risk, but have less access to resources
Role of Civil Legal Aid

• Many additional legal issues emerge during and after financial exploitation:
  • Medicaid
  • Consumer
  • Income Maintenance
  • Housing

• When the perpetrator is a family member or friend, older adults may not want to explore criminal remedies
Challenges of Reaching Older Adults in Rural Areas

• Civil legal aid has limited resources: time & travel
  • Also more difficult to get pro bono attorneys to places where significant travel is involved

• Older adults may have fewer transportation options in rural areas for accessing help
  • Rely on others to take them places
  • Limited public transportation

• Communication barriers (internet access)
Outreach Strategies

• Utilize trusted public spaces, like libraries
• Provide information in different places
  • Meals on Wheels partnerships for distribution
  • Local bulletins
  • Food pantries
  • Pharmacies
• Think about technology
• Join events hosted by local service providers
Adjusting Methods of Communication

• Many cases can be handled by phone
  • Ask your clients what works best for them for meetings

• Video conferencing
  • A growing method for connecting legal services or pro bono attorneys to clients
Building a Network

• Most importantly, building a network of people committed to addressing elder financial exploitation

• Training local people and service providers on
  • What legal services can do
  • What are legal issues
  • What are signs of abuse & exploitation

• Getting organized- task forces & councils
Maine Council for Elder Abuse Prevention
Maine Council for Elder Abuse Prevention: Introduction

• Created in 2011

• Originally a collaboration of 40 organizations and individuals across Maine – grown to over 80 organizations and individuals – all committed to ending elder abuse in Maine.

• Mission:
  • Support collaborative efforts to combat elder abuse, neglect and exploitation
  • Supports collaboration between existing resources
  • Facilitates cross disciplinary communication
  • Resource for training and education among stakeholders
Maine Council for Elder Abuse Prevention: Membership

• Membership includes:
  • Organizations such as AARP, the Maine Hospice Council, and the Maine Alzheimer’s Association
  • Hospitals, nursing facilities, individual caregivers, home health companies
  • Banks, credit unions, and financial services firms
  • Federal, state, county, and local law enforcement
  • State agencies including adult protective services, emergency management services, and the fire marshall
  • Elder abuse task forces and TRIADS
  • Legal Services for the Elderly, Maine Area Agencies on Aging, Maine Domestic Violence and Sexual Assault organizations
Maine Council for Elder Abuse Prevention: The Need

• Why is it necessary?
  • Maine is a rural state with an aging population – the oldest median age in the country
    • By 2030 25% of Maine’s population is projected to be 65+

• Social isolation – a huge vulnerability factor
  • For example – in my hometown today, more than 25% of the residents are 65+ and live alone
  • Additionally – 31% of Mainers who have been diagnosed with dementia live alone
Maine Council for Elder Abuse Prevention: Activities

• How does it work?
  • Events:
    • Annual Elder Abuse Summit May of each year
    • Annual Elder Abuse Roundtable October of each year
  • Projects:
    • Education and Awareness Committee
    • Financial Exploitation Work Group
    • Multijurisdictional Work Group
    • Mandated Reporter Work Group
    • Essay Contest Work Group

• No funding – not a corporate entity – fully functions based on the resources and in-kind contributions offered by its members
Training & Resources
Training & Resources

• National Center on Law & Elder Rights (NCLER) offers free online training and resources to attorneys & advocates:
  • Financial Exploitation Basics
  • Elder Financial Abuse & Medicaid Denials
  • Civil Litigation as a Remedy for Financial Exploitation of Older Adults

ncler.acl.gov
New Elder Justice Resources

• Financial Exploitation of Older Adults: A Guide for Civil Legal Aid Attorneys
  • Customizable, state-specific attorney practice guide

• Fall 2018: Elder Justice Compendium
  • Curated national resource collection with commentary

• Spring 2019: Elder Justice Toolkit
  • Civil legal attorney practice kit with court forms, tips and tools
Financial Exploitation of Older Adults: A Guide for Civil Legal Aid Attorneys

- NCLER’s newest elder justice resource is a template that can be customized to add state-specific information
  - Many legal remedies and options are state-specific
- Quick resource for attorneys to locate legal strategies and statutes for protection & redress
Who Can Use It?

• Guide is designed for:
  • Civil legal aid attorneys
  • Pro bono attorneys
  • Law students

• Customization could be a project for a law student or fellow
Guide Sections

• Practice Guidance
  • Trauma-Informed Legal Advocacy
  • Mandated Reporter Policy
  • Capacity
  • Screening

• Legal Strategies
  • Protection
  • Redress
  • Fraud & Scams

• Additional Issues
  • Coordination with Criminal Proceedings
  • Associated Legal Issues
  • Collaboration/Multidisciplinary Teams
Customizing the Guide

- Available in Word format for simple editing
- Highlighted portions indicate where state information should be added & where to locate it

<table>
<thead>
<tr>
<th>You need a legal remedy to...</th>
<th>Consider</th>
<th>Why?</th>
<th>Statutes &amp; Practice Tips</th>
</tr>
</thead>
<tbody>
<tr>
<td>Require the perpetrator to account for the funds and property of your client</td>
<td>Action for an Accounting</td>
<td>If the perpetrator was in a fiduciary relationship with your client, they may be subject to prove that they properly handled the funds and property of your client by supplying records and information.</td>
<td>If a separate action for an accounting is available in your state, insert citation for and any necessary elements. If online forms are available through your state’s court website, LawHelp, Law Help Interactive, or other sources, they should be linked here.</td>
</tr>
<tr>
<td></td>
<td>Action to Freeze Assets</td>
<td></td>
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<tr>
<td>Recover damages from the perpetrator, and the perpetrator was acting as your client’s agent</td>
<td>Breach of Fiduciary Duty (Tort)</td>
<td>If your client’s funds or property were mishandled by their agent (through a POA or other agent relationship), you might have a claim for breach of fiduciary duty. Generally, an agent is required to act in the best interests of the principal. If this breach occurred, your client may be able to recover traditional tort damages.</td>
<td>Insert citation for breach of fiduciary duty in your state, and any necessary elements. If online forms are available through your state’s court website, LawHelp, Law Help Interactive, or other sources, they should be linked here.</td>
</tr>
</tbody>
</table>
Making It Work for Your State

• Think about the information that will help attorneys do this work effectively
  • Local resources & contacts
  • Statutes
  • Available forms/pleadings
    • LawHelp Interactive
    • LawHelp
    • Court Websites
Finding the Guide

• State-specific versions being generated for: Virginia, Vermont, Pennsylvania, Connecticut, Florida, Massachusetts, Arizona, Iowa, and California
  • Will be available on NCLER website when complete

• Guide template can be requested by email
  • Technical assistance is available from NCLER
  • ConsultNCLER@acl.hhs.gov
Visit Our New Website:
NCLER.acl.gov

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Questions?

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