PROTECTING RESIDENTS FROM FINANCIAL EXPLOITATION:
How Ombudsmen Can Use the New CFPB Guide in Their Work

Please call 800.768.2983 and use access code 5629525 to join the audio portion of today’s webinar.
Overview of Webinar

- Background on Elder Financial Exploitation
- Overview of Guide
- Minnesota Guide 2010
- State Specific Manual: Tips for Adapting the Model
- How LTCOs Can Use the Guide in Your Work
- Overview of Pass It On
- Question and Answer
- Closing
Tips and Tools for Protecting Residents from Financial Exploitation

Naomi Karp
Consumer Financial Protection Bureau
Iris C. Freeman
Vulnerable Adult Justice Project
Disclaimer

- This presentation is being made by a Consumer Financial Protection Bureau representative on behalf of the Bureau. It does not constitute legal interpretation, guidance or advice of the Bureau.

- Note: This document was used in support of a live discussion. As such, it does not necessarily express the entirety of that discussion nor the relative emphasis of topics therein.
Consumer Financial Protection Bureau (CFPB)

- Created in Dodd-Frank Wall Street Reform and Consumer Protection Act; launched July 2011
- Mission: make markets for consumer financial products and services work for Americans — whether they are applying for a mortgage, choosing among credit cards, or using any number of other consumer financial products
- Core functions: educate, enforce and study
Office for Older Americans (OA)

- **Mission:** help consumers 62+ to get the financial education and training they need to:
  - Prevent unfair, deceptive and abusive practices aimed at seniors
  - Help seniors make sound financial decisions as they age.
- The only office in the federal government specifically dedicated to the financial health of seniors
Financial protection for older Americans

Older Americans face many financial challenges as they age. They have opportunities to travel, explore new fields of work or hobbies, or spend time with family and friends. But often scam artists or bad advice take away these opportunities. The Office of Financial Protection for Older Americans is here to give seniors information and tools to navigate safely through financial challenges.

Learn how to prevent elder financial exploitation using the Money Smart for Older Adults – Prevent Financial Exploitation curriculum. Produced in partnership with the FDIC, consumers can download the resource guide or the training module for instructors. Hard copies of the resource guide can be ordered and shipped free of charge.

Financial caregiving is also an important task that many take on suddenly or with little preparation. The free, downloadable Managing Someone Else’s Money guides are available for agents under powers of attorney, court-appointed guardians, trustees, and government fiduciaries (Social Security representative payees and VA fiduciaries). You can order free print copies in bulk here.
Background on Elder Financial Exploitation

- **Definition**: Illegal or improper use of an older adult’s funds, property, or assets.

- The **most common form** of elder abuse—but only a small fraction of incidents are reported.

- **Perpetrators** include family members, caregivers, scam artists, financial advisers, home repair contractors, fiduciaries and others.

- **Attractive targets**: significant assets or home equity

- **Vulnerable** due to: isolation, cognitive decline, physical disability, health problems, recent loss of partner/family member/friend
PROBLEM:

- Older adults residing in assisted living and nursing facilities are targets of financial abuse
- Threats come from
  - Trusted persons handling financial affairs
  - Stranger scams
  - Theft by staff or intruders
- Individuals with cognitive impairments are especially at risk
- Financial exploitation may place victim at risk of involuntary discharge or loss of housing and services due to nonpayment
Manual for facilities

- Guide to help operators and staff protect residents from financial exploitation through prevention and early intervention
- Target audience: administrators, business office staff, social service personnel, any staff involved in admissions
- Also useful in other residential settings
- Users can add information about state laws, regulations, reporting requirements and systems
Four pillars of successful intervention

- PREVENT – through awareness and training
- RECOGNIZE – spot the warning signs and take action
- RECORD – document your findings
- REPORT – tell the appropriate authorities and trigger responses
Understanding the laws

- **STATE LAWS** include definitions of financial exploitation, reporting mandates, criminal sanctions
  - Adult protective services
    - Is the victim eligible for services?
    - Does the allegation meet definition of exploitation?
    - Investigation – if financial exploitation, what services are necessary?
  - Law enforcement
    - Array of criminal laws
    - Specific crime of elder financial exploitation

- **FEDERAL REPORTING REQUIREMENT** : Report suspected crimes to state survey agencies and local law enforcement (doesn’t apply to assisted living facilities)
Warning signs of financial abuse – a few examples

- Possessions disappear from a resident’s room or apartment
- Resident pressured to make a decision or sign a document “now”
- A previously uninvolved person claims authority to manage a resident’s care and/or finances but does not provide documentation
- Unpaid facility bills
- Resident’s checkbook or check register shows checks made out to “cash” frequently or check numbers out of sequence
- Frequent or costly gifts to facility staff or volunteers
Model response protocol

- Team approach
- Investigate and record as soon as warning signs appear
- Advocate for vulnerable resident
- Understand reporting requirements
- Report: who, what, where, when, how
- Follow up
- Additional avenues for action
Prevention through multi-pronged efforts

- Staff orientation and training
- Facility financial policies and practices
- Exploitation or confusion??
- Scams that target older people
Minnesota Guide 2010
Stakeholder Approach
Background

- **Vulnerable Adult Justice Project**
  - Mission
  - Stakeholders

- **Improved MN laws 2009**
  - VAJP legislative initiative
  - Emphasis on financial exploitation
  - Facility examples

- **Grant funding to develop manual for facilities**
  - Project dates: September 2009 – June 2010
  - Enthusiasm among the stakeholders to find solutions
Goals

- To reach consensus on best practices for preventing and responding to financial exploitation in congregate care settings

- To develop a broadly endorsed manual and protocol with resource appendices
Methods

- Literature search and search and search
  - Void with respect to residents of health care facilities

- Focus groups
  - Facility trade associations
  - Adult protective services
  - LTC Ombudsman staff and volunteers
  - Elder lawyers and health facility lawyers
  - Law enforcement and prosecutors – local, county, and AG
Methods and process

- Individual and small group interviews
  - SUA and AAAs
  - Bankers
  - Guardians and Conservators’ Assn
  - Licensing agencies, regulators
  - Labor unions representing facility workers

- Drafts disseminated for feedback and consensus-building
- Final manual disseminated by facility trade associations
Focus Group and Interview Questions

- Getting settled: introductions; reviewing handout on the purpose, timeline, and desired outcome of project; assurance of confidentiality.

- Questions
  - Describe your pertinent case experience with financial exploitation of vulnerable adults in congregate settings.
  - What practices have led to successful outcomes?
  - What barriers/frustrations have you encountered?
  - What kind of guidance or information would make our product a practical tool for you and your work?
  - Further recommendations?

- Wrap up: Summarize information; describe next steps in process; provide contact information.
Findings

- Enthusiasm about project from stakeholders
- Frustration and finger-pointing among providers, adult protective services, and ombudsmen
- Clear areas of agreement about what “should” happen
- Urban & rural myths (e.g. Police cannot investigate exploitation of nursing home resident unless resident is discharged from facility.)
- Problems that needed broader advocacy: Legal issues (e.g. powers of attorney) and systems issues (e.g. differences among county policies) immune to a best-practice manual
State-specific manuals

Tips for Adapting the Model
Terminology, laws and systems

- Descriptions and citations
  - How your state laws defines the “elder” or “vulnerable” population
  - How your state law terms and defines “financial exploitation”
  - Criminal code provisions?
  - Enhanced penalties?
  - Civil financial exploitation laws?
  - Mandated reporter specifics and timelines?
  - Immunity for good faith reporting?
  - Where reports are filed (or called)?
  - Agency jurisdictions for processing and investigating reports
Terminology, laws and systems

- As well as
  - Findings and consequences
  - Applicable laws, rules or other guidance on report contents, data privacy issues, appeals of findings
  - NH or AL admission contracts laws?
  - Laws re: accounting for and protecting residents personal funds accounts and/or other valuables stored by facility staff
Resources for residents, families, facilities

- Roles and contact information for
  - Ombudsman
  - Adult Protective Services
  - Facility licensing and complaint agencies
  - Local legal services providers
  - County and state prosecuting attorneys
  - State Unit on Aging and Area Agencies
  - Local caregiver support groups
  - State Health Insurance Programs
  - Other pertinent state agencies (e.g. Commerce, Consumer Affairs, Public Safety)
Local summit or collaboration

- Potential missions: adapt the manual for your state, ongoing professional networking, multidisciplinary approaches to financial exploitation reports
- Has it already begun? Get involved!
- Nothing like that on the horizon? Be the spark!
- Small organizing committee
  - Agree on purpose
  - Set meeting date/time
  - Identify agencies to invite
  - Identify convenor/facilitator and recorder
  - Find an accessible, comfortable location
The basics

- Plan for a 2-hour stakeholder meeting
- Include simple refreshments
- Have a clear purpose statement in the invitation
- Cast the net widely for organizations and agencies to include

Agenda

- Getting started – 15 minutes (focus on purpose and resident safety)
- Sharing experiences, clarifying expectations, making recommendations – 90 minutes (highlight successful interventions as well as frustrations), identify best practices
- Wrap-up - 15 minutes (what can and will happen next?)
Using other free CFPB resources

- Money Smart for Older Adults
  - Instructor-led training curriculum from CFPB and FDIC
  - Raises awareness among older adults and caregivers

- Managing Someone Else’s Money
  - Guides for “financial caregivers” – those with authority to manage money for a family member or friend who is unable to pay bills or make financial decisions
  - Four types of fiduciaries/four guides
  - Walks them through their duties
  - Tells them to watch out for scams and financial exploitation
  - Tells them where to go for help
MANAGING SOMEONE ELSE’S MONEY
Help for agents under a power of attorney
Where to find CFPB guides


- Get hard copies of all three in bulk [http://promotions.usa.gov/cfpbpubs.html#special](http://promotions.usa.gov/cfpbpubs.html#special)
Contact

Naomi Karp
Senior Policy Analyst – Office for Older Americans
Consumer Financial Protection Bureau
naomi.karp@cfpb.gov

Iris C. Freeman
Vulnerable Adult Justice Project
William Mitchell College of Law
iris.freeman@wmitcell.edu
Using the Guide in Your Work

- In-Service Training for Facility Operators and Staff
- Presentation to Resident and Family Councils
- Development of a State-Specific Guide
- In-Service Training for LTCOs
Ombudsmen as Mandatory Reporters

• AoA states that state law may not require reporting of suspected abuse, neglect or exploitation by the LTCO Program where such reporting violates Federal requirements around disclosure.

• LTCO must adhere to federal disclosure requirements when acting as a LTCO, even if he or she carries a professional license (e.g. a licensed social worker)

• LTCO should communicate with their supervisor when they receive an allegation of abuse and follow the applicable state LTCO program policies and procedures regarding consultation and communication.

• For more information, refer to NORC’s TA Guide, Responding to Allegations of Abuse: Role and Responsibilities Of Long-term Care Ombudsmen, found on the website here: http://ltcombudsman.org/issues/elder-abuse-elder-justice.
Questions?
Pass it ON
What is Pass It On?
Consumer education for active older adults

Respecting a lifetime of experience

Encouraging sharing of information on:

- identity theft
- imposter scams
- charity fraud
- health care scams
- paying too much
- “you’ve won” scams
What’s included?

- Video
- One pagers
- Bookmarks
- Activities
In Demand

- 200,000 pieces distributed in 4 weeks
- Veterans groups, AAAs, state and local government, non-profits, social groups
- 49 states + Puerto Rico, USVI, Guam, and APO
Start a conversation

Share what you know, your strategies, your ideas

Get more information at ftc.gov/PassItOn
Join the NCLC/FTC webinar

“Pass It On: Older Adults, Fraud and the FTC”

September 10, 2014

2:00-3:30 EST

Go to www.nclc.org
Report frauds and scams to the Federal Trade Commission

→ 1-877-FTC-HELP

→ ftc.gov/complaint
The National Long-Term Care Ombudsman Resource Center (NORC)
www.ltcombudsman.org

The National Consumer Voice for Quality Long-Term Care (formerly NCCNHR)
http://www.theconsumervoice.org/

This presentation was supported, in part, by a grant from the Administration on Aging, Administration for Community Living, U.S. Department of Health and Human Services.