



The National **Long-Term Care** **Ombudsman** Resource Center

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

August 26, 2014

Tips and Tools for Protecting Residents from Financial Exploitation

Naomi Karp

*Consumer Financial Protection
Bureau*

Iris C. Freeman

Vulnerable Adult Justice Project

Disclaimer

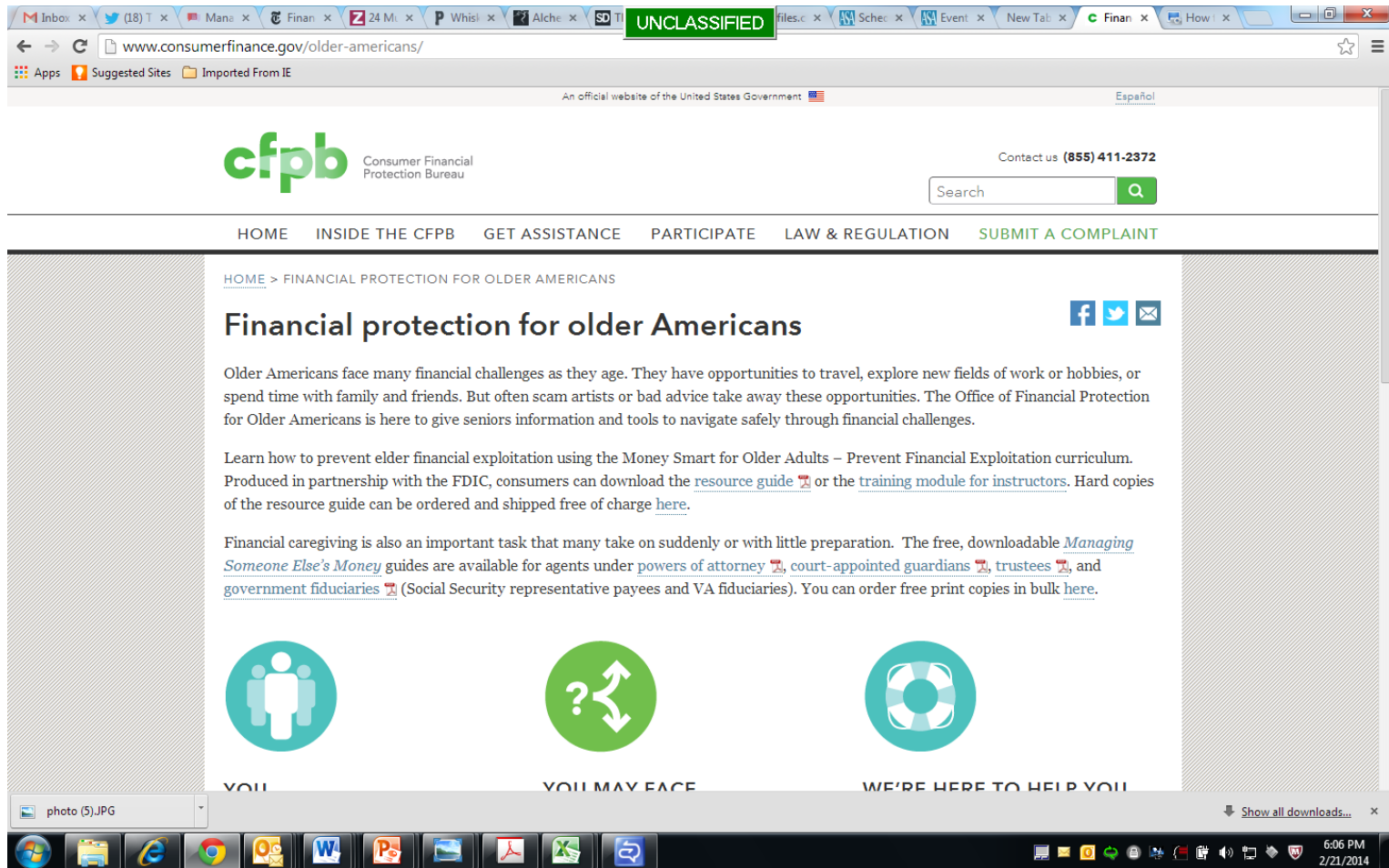
- *This presentation is being made by a Consumer Financial Protection Bureau representative on behalf of the Bureau. It does not constitute legal interpretation, guidance or advice of the Bureau.*
- *Note: This document was used in support of a live discussion. As such, it does not necessarily express 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



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

CFPB Initiative: Manual for assisted living and nursing facilities

■ 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

cfpb

Consumer Financial
Protection Bureau

OA Initiatives: Money Smart for Older Adults



Where to find CFPB guides

- Link to Money Smart and Managing Someone Else's Money at <http://www.consumerfinance.gov/older-americans/>
- Link to guide for assisted living facilities at http://files.consumerfinance.gov/f/201406_cfpb_guide_protecting-residents-from-financial-exploitation.pdf
- Get hard copies of all three in bulk <http://promotions.usa.gov/cfpbps.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@wmitchell.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?

...PassitON

Federal Trade Commission
ftc.gov/PassItOn





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

...Pass it ON

- Start a conversation 
- Share what you know, your strategies, your ideas
- Get more information at ftc.gov/PassItOn 



For More Information

- 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

...Pass it ON

Report frauds and scams to the Federal Trade Commission



→ 1-877-FTC-HELP

→ ftc.gov/complaint

om
buds
man

The National Long-Term Care Ombudsman Resource Center

**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.