

WELCOME to Minnesota Elder Justice Center: Center Partners' Meeting

August 10, 2018

MINNESOTA
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AGENDA

- Introductions and Announcements
- Center Partners Changes
- Caregiver Neglect – A deeper dive
 - Overview and Context
 - APS perspectives and policy
 - Discussion: Scenarios and Possible Policy Responses
 - Next Steps

Announcements

Save the Dates!

Elder Justice on Tap Fundraiser

October 29, 4-7 pm

Surly Brewing Co.

[520 Malcolm Ave SE, Minneapolis](#)



World Elder Abuse Awareness Day Conference

June 5, 2019

Earle Brown Heritage Center

Brooklyn Center, Minnesota.



Announcements



Commerce is here to help
consumer.protection@state.mn.us
mn.gov/commerce
651-539-1600 | 1-800-857-3602 (Greater MN)

Minnesota Safe Seniors Financial Protection Act

Background

Seniors and vulnerable adults are often targeted for financial exploitation. According to the Investor Protection Trust, one out of every five persons over the age of 65 has been victimized by a financial swindle. One recent study estimated that older Americans are defrauded out of nearly \$3 billion each year. The threat of senior financial fraud is expected to grow as the senior population itself grows – including in Minnesota, where the number of people age 65 and over will double between 2010 and 2030.

As the state's consumer protection agency, the Minnesota Department of Commerce is proposing legislation to collaborate with the state's financial institutions and professionals to help protect vulnerable and older adults against financial abuse. Because of their long-standing relationships of trust with older clients, they are uniquely positioned as a first line of defense to spot and stop financial exploitation.

The Minnesota Safe Seniors Financial Protection Act updates related legislation introduced at the Minnesota Legislature in 2015. It also closely follows a model act recently approved by the member states of the North American Securities Administrators Association (NASAA). Commerce Commissioner Mike Rothman is president-elect of NASAA.

immediately report when they have reasonable belief of financial exploitation against an eligible adult. A report must be made to both the Commerce Department and the Minnesota Adult Abuse Reporting Center (a 24-hour service).

Third-Party Disclosure. Qualified individuals may disclose information about the suspected financial exploitation to a third party previously designated by the eligible adult – except when the third party is suspected of the exploitation.

Delayed Disbursement of Funds. Qualified individuals may delay the withdrawal or transfer of funds from an eligible adult's account if they reasonably believe it may result in financial exploitation. Delay is also permitted if the Commerce Department, law enforcement agency or prosecutor provides information demonstrating a reasonable belief of financial exploitation.

Delayed Disbursement Procedures. Within 2 business days, a delayed disbursement must be reported to the Commerce Department, the Minnesota Adult Abuse Reporting Center and all parties on the account. Within 7 business days, the results of an internal review of the suspected exploitation must be reported to the Commerce Department. The delay must expire when the regulated entity determines that financial exploitation will not result or after 15 business days, whichever is sooner. The Commerce Department or

[Click Here for More Info](#)

Announcements

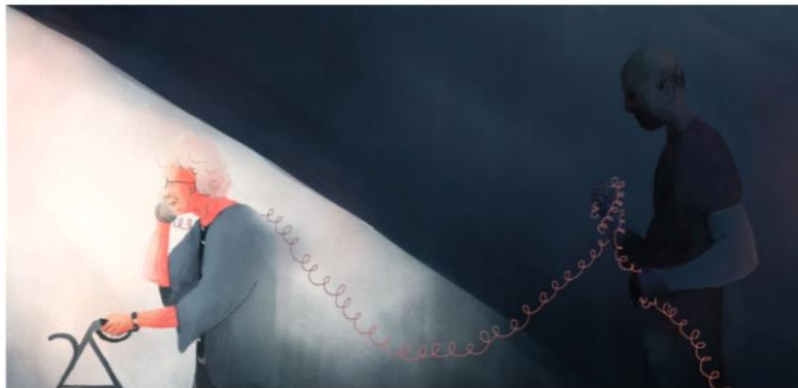
PERSONAL HISTORY

MY MOTHER AND HER SCAMMER

She was fooled by a group of expert criminals. The rest of us were fooled by her.



By David Owen July 20, 2018



[Click Here for More Info](#)

Other Topics

ANALYSIS AND COMMENTARY

Expanding Slayer Statutes to Elder Abuse

Jennifer Piel, JD, MD

Common law has a dictum that people must not benefit from their crimes. In years past, states have enacted slayer rules to prevent killers from inheriting from their victims. The specific criteria and applicability of slayer rules vary by jurisdiction. Recently, several states, including Washington, have expanded their slayer rules to disqualify persons from inheriting if they have been involved in abuse or financial exploitation of the deceased. Reviewed herein are the abuse disinheritance laws, the relationship of the laws to concepts of testamentary capacity and undue influence, and the relevance to forensic psychiatric evaluations.

J Am Acad Psychiatry Law 43:369–76, 2015

[Click Here for More Info](#)

Announcements

Other...??

Center Partners

Upcoming Changes/Events

- ▶ Meeting Format: CEUs, Live-stream, Reports and Updates from Sub-Committees
- ▶ Meeting Location
- ▶ Subcommittee on Changes to the Vulnerable Adult Act
 - ▶ Send e-mail to sean.burke@elderjusticemn.org with name, organization, and a brief description about your interest in this subcommittee
 - ▶ Sign Up Sheet today
 - ▶ Meetings will begin soon

Caregiver Neglect: A Deeper Dive

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Today's Goals

- ▶ Identify the emerging issues regarding types of caregiver neglect and possible policy responses
- ▶ Analyze current legal regulation of caregiver neglect and possible changes

What is a Caregiver – 626.5572

- ▶ "Caregiver" means an individual or facility who has responsibility for the care of a vulnerable adult as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, by contract, or by agreement.

Caregiver Neglect: Some Stats

- ▶ 35% of complaints to MAARC were for caregiver neglect.
- ▶ This is twice as much as the next two most common complaints (Financial Exploitation and Self-Neglect)
- ▶ Of the 35%, it is unknown how many of the caregivers were related to the vulnerable adult

Comparing Systems

Criminal

609.232

Prosecutors must prove crime beyond a reasonable doubt

Criminal penalties

State is the party to the proceeding (not the victim)

Administrative

626.557

Perpetrators can appeal to a DHS judge (and district court beyond)

A property interest is at stake – usually a credential for work

Civil

626.557 subd. 20 or other civil claims

Involves a legal dispute between two parties/entities (usually about money damages)

Other Considerations

- ▶ Other States wrestle with vagueness and enforcement of caregiver neglect statutes.*
 - ▶ Legislators can help prevent a court decision that a statute is unconstitutional by drafting neglect statutes that provide adequate notice to defendants and definite guidelines in order to preclude arbitrary and discriminatory enforcement in criminal, civil, and administrative proceedings.
 - ▶ State agencies charged with investigating allegations of neglect should ensure they make findings based on substantial evidence.

* [Neglect of Older Persons: An Introduction to Legal Issues Related to Caregiver Duty and Liability](#) (Steigel, Klem, and Turner)



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Scenarios

- ▶ Family with an adult child with mental health issues. Various mental health crisis lead to arrests/hospitalization. Dr. orders “24 hour care”, but insurance/M.A. wont cover that. Parents are investigated for caregiver neglect of VA because they can’t follow the 24 care plan without more resources. What happens now?

Scenarios – When Support Services are Not Enough

- ▶ Family with an adult child with mental health issues. Various mental health crisis lead to arrests/hospitalization. Dr. orders “24 hour care”, but insurance/M.A. wont cover that. Parents are investigated for caregiver neglect of VA because they can’t follow the 24 care plan without more resources.

Scenarios – Disparate Impact on Certain Communities

- ▶ Immigrant/undocumented families or individuals without access to M.A. or other services. Family trying to care for family member with cognitive decline, but can't handle the elopement issues.
- ▶ The push for “informal” supports within the system puts new requirements and liabilities on caregivers without necessarily providing enough training, support, etc.

Scenarios – How long must you stay a voluntary Caregiver?

- ▶ Adult children know that aging parent needs more help. Family agrees that one child will move in and take care of parent. Six months later, circumstances change and adult child moves out, leaving the V.A. in a precarious situation.
 - ▶ What if child never moves in
 - ▶ What if child's caretaking is "substandard"

Policy Solutions/Ideas?

- ▶ Change definition of caregiver to remove “as a result of a family relationship”
- ▶ Modify or change the concept of a voluntary caregiver?
- ▶ Further thoughts about how an APS investigation response affects the vulnerable adult and family when the allegation is caregiver neglect
- ▶ Other?

Contact Us

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