

WELCOME to Minnesota Elder Justice Center: Center Partners' Meeting

Nov. 9, 2018

MINNESOTA
ELDER JUSTICE
CENTER

AGENDA

- **2:00 – 2:15 | Introductions | Updates & Announcements**
- **2:20 – 3:00 | Medicare Changes: Specific Challenges to 2019 Medicare Enrollment**
- **3:10 – 4:00 | Financial Exploitation Injunction Vulnerable Adults, AL Licensing**

Federal Policy

- **Public Charge Rule**
 - [Learn more from this free streaming webinar](#)
- **CMS Work Requirements for Medicaid Being Approved**
 - [Overview of the state of work requirements and affect on older adults](#)
- **Proposed Regulatory Changes re:**
 - [Emergency Preparedness for Nursing Homes](#)
 - **Regulatory Oversight of Nursing Homes**

Exploitation Injunction: A New Tool in Florida...Would it Work Here?

Text of Statute

- ▶ Exploitation Injunction provides for a petitioner to request an immediate freeze on accounts of a vulnerable adults when VA is in “imminent danger of being financially exploited”
- ▶ After 15 days, hearing is scheduled where the alleged perpetrator (respondent) is to appear

Exploitation Injunction: A New Tool in Florida...Would it Work Here?

- ▶ Judge can order a continuation of the freeze, and end of the freeze, or other relief.
- ▶ Petition is filed without fees

Needed in MN? Considerations?

- ▶ Prohibiting the respondent from having any direct or indirect contact with the vulnerable adult.
- ▶ Immediately restraining the respondent from committing any acts of exploitation against the vulnerable adult.
- ▶ Freezing the assets of the vulnerable adult held at _____ even if titled jointly with the respondent, or in the respondent's name only, in the court's discretion.
- ▶ Freezing the credit lines of the vulnerable adult at _____ even if jointly with the respondent, in the court's discretion.
- ▶ Providing any terms the court deems necessary for the protection of the vulnerable adult or his or her assets, including any injunctions or directives to law enforcement agencies.

Other Features – What does an Order look like?

- ▶ Who can bring the petition
- ▶ How does this court action interplay with other systems such as a law enforcement investigation, APS investigation, guardianship/probate proceedings?
- ▶ How would it help? Can we already do this? Who would use it?
- ▶ Due process concerns – with the VA? The Respondent?
- ▶ Costs associated with this (especially if no fees?)
- ▶ Other?

Elder and Vulnerable Adult Abuse Prevention Groups

- ▶ 6 informal groups organized by MDH
- ▶ Assisted Living Licensing group is looking at how to reform current MN law that regulates assisted living
- ▶ Stakeholder group led by Commissioner Malcom and made up of regulators and agencies (MDH and DHS), consumer advocate groups, provider associations and individual providers, individual caseworkers, other concerned citizens

Vulnerable Adult Act

- ▶ Caregiver neglect
- ▶ Self Neglect
- ▶ Should harm have to occur for an act to be considered financial exploitation
- ▶ Information Sharing by APS to alleged victim and/or support person

Caregiver Neglect

▶ **The Problem:** Tension between

- ▶ DHS policy and State “value” of encouraging and supporting informal/family caregivers VS.
- ▶ The current definition of caregiver neglect in VAA

Also – current definition is not clear or flexible enough to encourage APS to look at other possible solutions to the underlying issues (needs more support services, homecare services, etc.)

Current Definition

- ▶ "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.

Areas of Agreement

- ▶ Remove language about family

"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.

ACL 2018; Connolly 2014

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