Understanding the Role of Legal Services in the Lives of Vulnerable Seniors

Partnering with Legal Providers to Respond to Elder Financial Exploitation

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Introductions: Getting to Know You

- Name
- Program
- From
- Work
- What would you like to take away from this workshop?
Workshop Goals / Learning Objectives:

Participants will learn about:

• The role of the State Legal Services Developer and how the Developer can assist states in broad Elder Rights Advocacy;

• Forming effective strategies for integrative partnerships;

• How to spot potential civil legal issues in reports of abuse, neglect, and exploitation;

• Where to refer callers for free civil legal resources to address the abuse, neglect, and exploitation of seniors; and

• How to establish a coordinated network of legal and social services providers in the participant’s community.
Advocacy in the Aging Network
What is a Legal Services Developer?

- A position required in each state under the Older Americans Act (OAA)
- Responsible for providing leadership in developing legal assistance programs for persons 60 years of age and older and provides oversight of the OAA Title IIIB legal assistance programs.
- Plays a key role in assisting states in the development and the provision of a strong elder rights system.
- Assures that at-risk older people understand their rights and have access to the civil justice system.
What are Elder Rights?

- The Older Americans Act is more than just the program and services created by the Act.

- The Act seeks to advance a number of objectives that we can read in Title I.

- The purpose of the OAA is to secure and protect essential rights and benefits for older persons, e.g. adequate income, quality health care, affordable and suitable housing, non-discrimination, autonomy and choice.

- **Achieving this purpose necessarily involves legal advocacy services.**
What is Advocacy?

- Many different ways of thinking about advocacy
- One definition - An advocate is a person who represents and works with a person or group of people who may need support and encouragement to exercise their rights, in order to ensure that their rights are upheld.

- Formal vs. informal advocacy
Why Do We Need Advocacy?

• Premise - Difficulty in personally exercising rights should not mean that those rights no longer apply.

• Some effective method of assisting the person to exercise their rights must be found.
If we see ourselves as advocates, rather than simply service providers, we need to ask ourselves a number of questions:

- As advocates for older persons, particularly those that are economically and socially vulnerable, are we taking a holistic approach to our service provision?

- Are we the eyes and ears to the opportunities and challenges seniors face, or are we simply gatekeepers that open or close doors?

- If not, how do we do this?
What is the Legal Assistance Program Under Title III B of the Older Americans Act?

- The role of the Title IIIB legal assistance program is to **identify and serve** the civil legal needs of those older people who are **most vulnerable** due to social and/or economic circumstances, particularly those who are frail, isolated, and/or minorities.

- The activities of these legal programs and the legal services developer help seniors by enabling them to **retain their autonomy and remain in the community**. They also assist in the prevention of many kinds of abuses against older people.
What Types of Legal Services are Provided?

- **Maintaining adequate income** – Medicaid and other public benefits
- **Securing Health Care Benefits** - Medicare and other medical plans
- **Keeping safe and affordable housing** - Foreclosure, eviction, utility shut-off
- **Preventing and finding relief from fraud, abuse, neglect and exploitation** - Home repair scams, revoking powers of attorney, restraining orders, and other remedies
- **End of life care communications** - Advance directives, do-not-resuscitate issues
- **Maintaining the rights of at-risk older persons** - Guardianship and conservatorship defense, residents’ rights protections
Older Floridians Legal Assistance Program

- IIIB is more than a funding source
- We should and can be buying more than ‘units of legal service’
- The Older Floridians Legal Assistance Program is a collaborative statewide program of key stakeholders working together to serve the legal needs of seniors in greatest economic and social need.
Why Coordinated/Integrated?

- Holistic view of client services
- Integrated point of entry
- Treating the cause rather than the symptoms
- Many people are reluctant to admit they have legal problems
- There may be a pattern of problems that need systemic advocacy
No Man is an Island

- No one discipline has all of the answers
- Build referral networks for better client service
- Diverse services
  - In-house
  - Referral networks
    - Formal
    - Informal
Who is a Civil Legal Services Provider?

1. Statewide Senior Legal Helpline
2. Title IIIB Legal Provider
   - Other local legal aid organizations
3. The State Bar – The Private Bar
   - Elder Law
   - Personal Injury
   - Local Bar Association
Other Sources of Legal Information

  - ‘Life Planning’ Page
  - ‘Age 60+’ Page

- State Bar Consumer Pamphlets
  - Powers of Attorney
  - Advance Directives

- Court Self-Help Centers

- Handbooks for seniors
Networking with Providers

- Identify legal service providers
- Build relationships with them
- Learn what kinds of issues and clients they can help
- Collaborate and cross-train on training intake and referral staff
- Program visits
Learning Objectives

- Develop the ability to identify civil legal needs
- Learn to identify underlying causes for reported problems
- Learn the basics of preparing a senior with a legal issue for referral to an appropriate provider
- Understand the resource limitations within the civil legal system and how this can be overcome through effective partnerships
The Easy Indicators of Legal Need

- I need to talk to a lawyer
- I need a divorce
- I need a will and power of attorney
- I have been hurt
- I am being sued
- I am being evicted
The Next Questions

- **Self-identified legal problem**
  - **Screen for:**
    - Legal or non-legal: review with the senior
    - Urgency/legal deadlines reported by senior
    - Other non-legal needs and services
    - Possible mental health issues
    - Eligibility for public or other benefits
    - Classify for appropriate referral
Social Services or Legal Need?

- Senior needs help with food or paying utility bills.
- Standard solution is to connect with food or utility assistance.
- Holistic approach is to look for a underlying or systemic issue.
Look for Problems With...

- Income
- Exploitation
- Abuse
- Living conditions (landlord/tenant)
- Debts

.....that complicate or aggravate health problems or interfere with the caller’s independence and quality of life.
How Can You Help? Ask Questions!

- Income
- Assets
- What are they spending their money on
  - Detail is important
- Changes in personal and household income
- Changes in family status
- Ask about debts – mortgage issues
Inviting Disclosure: Some Questions to Ask

- When did this happen?
  - *Timing is very important*

- Have you received a letter or notice from anyone? *(they may not tell you)*
  - When
  - Dated
  - Mail, notices hand-delivered or left on door

- Are you worried about your safety?
Additional Questions

- Has there been a change in family status?
- Is someone threatening you?
  - Who?
  - How?
  - When?
- Has there been a change in income, health care coverage, housing?
  - Look for a termination of or a reduction in a benefit
Focus on Financial Exploitation

- Persons over the age of 50 control over 70% of the nation's wealth.
- The annual financial loss by victims of elder financial exploitation was estimated to be $2.9 billion in 2009, a 12% increase from 2008.
- An estimated $40 billion is lost every year to investment fraud, with losses from seniors totaling as much as $2.6 billion.

For our mutual clients, our focus is on the illegal or improper use of an elder's funds, property, or assets.
Warning Signs of Exploitation

- Sudden changes in bank account or banking practice
- Inclusion of additional names on an elder's bank signature card;
- Unauthorized withdrawal of the elder's funds;
- Abrupt changes in a will or other financial documents;
- Unexplained disappearance of funds or valuable possessions;
- Substandard care being provided or bills unpaid; despite the availability of adequate financial resources;
- Unexplained sudden transfer of assets;
- Provision of services that are not necessary
Referrals - Clients

- Does the Client understand that there may be a legal problem and a legal remedy?
- Does the Client want help with the issue?
- Does the Client have capacity to communicate the problem?
  - If not, does Client have an agent under a DPOA?
Referrals – Civil Legal Providers

- Understanding Legal Referral Protocols
  - Understand what kinds of cases they will take
  - Client eligibility rules
  - Intake procedures for new clients
  - What, how, when, and where?
  - Who will they talk to?
  - Ways to avoid client bounce/assure help is received
  - Share info about unmet legal needs/lack of good referrals
• 67 Counties
• 4,157,824 residents age 60 and older
• 11 Planning & Service Areas, each with its own Area Agency on Aging
• 14 Title III-B Legal Partners
Creating Effective Partnerships

• Identify legal services providers and invite them to be included in a referral network

• Learn about the types of issues, clients they can help

• Collaborate on training intake and referral staff

• Cross-train all staff and undertake program visits

• Identify coordinated response appropriate for elder financial exploitation
Case Studies

BREAK-OUT GROUPS
DISCUSSION OF ACTION PLANS
QUESTIONS
Contact Us

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