RESPECT YOUR ELDERS:
FAMILIES, ELDER ABUSE AND EXPLOITATION
AND ELDERCARING COORDINATION

"I JUST WANT MY FAMILY TO GET ALONG!"

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ACR / FLAFCC ELDER JUSTICE INITIATIVE ON ELDERCARING COORDINATION
FLORIDA DISPUTE RESOLUTION CONFERENCE 2019

Learning Objectives:
• Identify types of elder abuse: emotional, physical, neglect, sexual, and exploitation
• Detail risk factors that could lead to elder abuse
• Recognize warning signs of elder abuse
• Explain strategies, approaches, and referral sources, including eldercaring coordination, to identify and address possible abuse

PREVALENCE OF ELDER ABUSE
COMMITTED BY FAMILY MEMBER

WHICH ELDERS ARE AT RISK?

- Low social support
- Dementia
- Prior Traumatic Events (Interpersonal and Domestic Violence)
- Functional Impairment and Poor Physical Health
- Women more likely to be abused than men
- Living in large family households
- LGBTQ

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FREQUENCY OF ABUSE

- 1 in 10 seniors will experience elder abuse in their lifetime.
- Only about 7 percent of elder abuse gets reported to authorities.
- Two-thirds of elder abuse cases involve family members.
- Victims of elder abuse have a 300 percent higher mortality rate than seniors living in safe environments.
- Elder abuse costs Americans billions of dollars annually.

TYPES OF ABUSE

- PHYSICAL ABUSE: An action to an older person that results in bodily harm or injury
- SEXUAL ABUSE: Forcing an older person to engage in sexual activity
- FINANCIAL EXPLOITATION: Unauthorized use of older person’s financial resources
- CAREGIVER NEGLECT: Failure to provide an older person with necessary care and needs

KNOW THE SIGNS - WHAT TO LOOK FOR: PHYSICAL ABUSE

- Actions:
  hitting, shoving, kicking, burning, restraining person
- Signs to watch for:
  bruises, welts, cuts, burns, broken bones

KNOW THE SIGNS - WHAT TO LOOK FOR: SEXUAL ABUSE

- Forcing the older person to look at pornography
- Taking photos of the person undressed
- Forcing the person to engage in sexual activity
KNOW THE SIGNS - WHAT TO LOOK FOR:

FINANCIAL EXPLOITATION

- Forging the older person’s signature
- Misusing cash, credit cards, checks, etc.
- Identity theft
- Scams

KNOW THE SIGNS - WHAT TO LOOK FOR:

CAREGIVING NEGLECT

- Foul body odor
- Poor Hygiene
- Inappropriate clothing for the season
- Inadequate food, shelter

KNOW THE SIGNS - WHAT TO LOOK FOR:

EMOTIONAL/PSYCHOLOGICAL ABUSE

- Yelling
- Overly critical
- Belittling language
- Threats
- Isolation of elder from others

IN ABUSE CONFLICTS, ELDERS...

May reject interventions because they:

- Do not want family members to be in trouble
- Don’t want to admit being taken advantage of
- Fear the loss of their independence
- Fear losing dependence upon the abuser
TRADITIONAL RESPONSES TO ELDER ABUSE

- Adult Protective Services
- Law Enforcement
- Court System

SCREENING FOR ABUSE OR NEGLECT

- Safety of the Elder is Paramount
- ABA Elder Mediation Screening Tool for Evaluating Risk
- Safety Precautions
- Tension between legal duty and ethical duty: Model Rules of Professional Conduct, Rule 1.2

RESPONSIBILITY TO REPORT:
FLORIDA STATUTES AND RULES

- Duty to the Elder: FS 415.1034 Mandatory Reporting of Abuse, Neglect or Exploitation of Vulnerable Adults
  - Elder Justice Act, 2010
  - DCF Abuse Report Hotline – Guidelines for Professionals (link)
- Mediator’s Responsibilities: FS 44.405 Confidentiality: privilege; exceptions---
- Rules for Certified and Court Appointed Mediators: Rule 10.420(a)(3)(b) Adjournment or Termination
  - Mandatory verses Discretionary Reporting: MEAC Opinions

MULTIDISCIPLINARY STRATEGIES WORK BEST
STRATEGIES SPECIFIC TO MEDIATION

- Private Caucus
- Participation of Third Party
- Representation by Counsel
- Security
- Referral for Services
- Adjournment or Impasse

ELDER JUSTICE INITIATIVE ON ELDERCARING COORDINATION

...helps families reduce conflict, minimizes risks and abuse, and respects and preserves the dignity, and quality of life of aging persons

An Eldercaring Coordinator (EC):

Provides benefit to:
- Elders
- Legally authorized decision-makers
- Others who participate by court order or invitation

RESOLVES high conflict disputes in a manner that respects the elder’s need for autonomy and safety...
**EC ROLE VIA COURT ORDER**

- Enables more effective communication, negotiation and problem-solving skills
- Offers education about elder care resources;
- Facilitates creation, modification, or implementation of eldercaring plan;
- Makes recommendations for resolutions; and
- Makes decisions within scope of court order or with parties’ prior approval.

**Transforming Intractable Conflict**

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**EC QUALIFICATIONS**

- Master’s degree
- Licensure or Certification
- Extensive practical experience in a profession related to high conflict families
- Required training: Family mediation, Elder mediation, AND Eldercaring coordination

**Next Florida EC Training:**
November 12-14, 2019

Stetson U College of Law Center for Excellence in Elder Law, Tampa Campus

**GATEKEEPING AFFECTS ALL THE GENERATIONS**

Is family facilitative or restrictive?  
Are protections warranted or unjustified?

- Isolating aging person
- Time-consuming
- Withholding information
- Alienating
- Personal agendas
- Blocking phone access
- Denying visitors
- Safety issues!!!

**FAMILY SECRETS AND SAFETY ISSUES**

- Abuse/Neglect
- Coercion
- Vulnerability
- Isolation
- Unsafe environment
- Physical challenges
- Caregiver capacity
- Substance abuse/Mismedication

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**HOW ELDERCARING COORDINATORS COMBAT EFFECTS OF ELDER ABUSE**

- Address non-legal issues
- Free judicial time
- Foster self-determination
- Identify risks/mandated reporters
- Prepare elder/family to work with others
- Increase the safety of elder and family
- Create intergenerational support system

**HOW ELDERCARING COORDINATION EMPOWERS THE OLDER PERSON**

- Allows more time to resolve disputes
- Parties decide relevant information/issues, not parameters of law
- Promotes consideration of viable options
- Parties can contribute to decision-making
- Facilitates effective communication

**ELDERCARING COORDINATION PILOT SITES**

One judge, or judges, in a specific county or province, who refers at least six families who participate in eldercaring coordination.

...Or group of attorneys who refer at least 6 cases through agreed orders.

ECs trained in California, Florida, Idaho, Indiana, Maryland, Minnesota, Ohio and Toronto

8 Circuits in Florida!

**MORE INFORMATION:**

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