



## **Tompkins County Office for the Aging**

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### **Strategic Planning 2014 Elder Financial Exploitation and Abuse**

A Consensus Conference on the topic of Elder Financial Exploitation and Abuse, including fraud/scams/abuse/neglect, was convened at the Tompkins County Public Library in the Borg Warner Room on August 20, 2014. Lisa Holmes, Director of the Office for the Aging, facilitated the discussion.

The following individuals participated:

Carol Ackley, Alzheimers Association  
Brenda Baker, Cayuga Ridge  
Edward Bergman, Adult Protective and Long Term Care Services, DSS  
Mike Danaher, NYS Attorney General's Office  
Ann Dolan, Family and Children's Services  
Marcie Finlay, Blumkin & Finlay Law Office  
Carole Fisher, Cornell Cooperative Extension  
Karl Graham, Alternatives Federal Credit Union  
Lisa Holmes, Office for the Aging  
Jeff Huddle, Ithaca Police Department  
Ellie May, Office for the Aging Advisory Committee  
Louise Miller, Advocacy Center  
Nancy McKeon, Caregivers  
Suzanne Motheral, Office for the Aging  
Stephanie Nevels, Adult Protective Services  
Penny Van Schoick, Tompkins County District Attorney's Office  
Nathan Spreng, Cornell University  
Kelly Strobeck, Long Term Care Services, DSS  
Patrick Weir, Beechtree Care Center  
Gwen Wilkinson, Tompkins County District Attorney

The following is a summary of the discussion and findings of this Consensus Conference.

# **Introduction and Overview of Elder Financial Abuse and Exploitation in Tompkins County**

## **Introduction and Demographics**

**Edward Bergman, Coordinator of Adult Protection Services and Long Term Care, DSS**

According to the publication “Under the Radar: The New York State Elder Abuse Prevalence Study,” 3.2 elder abuse cases are reported for every thousand individuals 65 or older. (There are approximately 11,000 individuals age 65+ in Tompkins County as of the 2010 census.) When a telephone survey was conducted, closer to 76 per thousand older adults self-disclosed that they suffered from abuse. Financial exploitation is reported as one case per thousand older adults, in contrast to the 42 per thousand older adults who self-disclosed that they suffer financial exploitation. The problem is not being fully reported or documented. Most often the police or other authorities are not involved and no one is prosecuted for the abuse.

Statistics of the older adults who self-report indicate who is committing the abuse. For example, elders most often cite spouses/partners as committing physical abuse, while grandchildren are most often cited as committing financial abuse. When families move in together for economic reasons, it can lead to financial exploitation, abuse or neglect.

New York State is the only state that does not implement mandatory reporting of elder abuse, financial exploitation, or neglect.

## **Strengths and Highlights**

Tompkins County has multidisciplinary and cross-agency collaboration. Many professionals know each other and will exchange information when there is suspicion of wrong doing.

Foodnet delivery drivers, Medicaid outreach, “friendly visitors,” and outreach workers from Tompkins County Office for the Aging are going into homes of older adults regularly and may be able to assist when there is a problem. Lifelong, the Greater Ithaca Activities Center, senior groups, and houses of worship bring seniors together so that they are not so isolated and can learn about frauds, scams, exploitation, and may be more likely to share concerns. Agencies that are easy to call such as 2-1-1 and Cooperative Extension’s Consumer Helpline are avenues to get help, and people don’t have to share too much personal information.

To report scams, people can phone 800-771-7755. This number rings in the area where the Attorney General’s office is located within the area code (607 area code calls the Binghamton office of the AG).

This is a County focused on educational resources and much of the population is highly educated.

There are senior housing residences in multiple municipalities. Additionally, there are facilities of various levels for people who need care at different levels at different times. The infrastructure of support in the County is strong and there are people with resources. There is an emphasis on volunteerism and services provided through volunteers. Seniors who are able can volunteer, and other seniors may benefit from the services provided.

Staff at Cayuga Medical Center picks up conditions and concerns of older adults. A representative from the Attorney General's Office is available in Ithaca monthly to provide information and to discuss individual's concerns when they are uneasy or unsure where to go.

### **Challenges and Opportunities**

There are situations where it appears to a service provider that an older adult is being exploited but the situation is not severe enough to intervene. Many situations are not clear cut. Sometimes the older adult is protecting the abuser. Everyone has the right to make choices, even when it appears that the choice may cause them harm. This leaves the older adult vulnerable, and the service provider is "waiting for the other shoe to drop" until the older person is willing to report.

The issue of competence results in complications during prosecution due to the importance of a reliable witness or statement. There may be few witnesses. Sustaining the burden of proof can be very difficult in court. The testimony of a very elderly person who is the victim within the courtroom setting may not allow prosecution to achieve the burden of proof.

The intermediate condition between full capacity and lack of capacity (where guardianship may be appropriate) may result in an individual's susceptibility, especially to phone scams. The person's home phone number can be changed, but the "scam friend" can locate the target individual again and repeatedly financially exploit the person. It can be hard for service providers to step into such a situation because the individual is not incompetent and has the right to make their own choices.

The science and the law have not kept pace with dementia and cognitive deficits and changes in thinking and decision making. There is a stage where some people cannot take care of themselves the way they used to, yet are not ready for full guardianship. It can be difficult for families to step in to assist, and sometimes a family member may be a perpetrator. Community providers, even Adult Protective Services cannot intervene as is possible in the case of child abuse. Seniors are left vulnerable "until the other shoe drops" and the crisis worsens.

Another situation occurs when older adults do not recognize what abuse actually is. For example, one may say "my granddaughter is just a taker" when the granddaughter is financially exploiting the older adult.

The isolation of victims happens with elder abuse, as with other victimizations, when the perpetrator keeps the victim in isolation. Another situation may be unintentional abuse when there is a caretaker who burns out with the stress and isolation of caregiving, and the caretaker does not want to or know how to reach out for help. People do not know what will happen when they do ask for help. For instance, if Adult Protective Services gets involved, people may be frightened of the unknown consequences of that intervention. Also, sometimes the fear of APS involvement can be seen as positive, acting as a deterrent to perpetrators.

There are not enough Medicaid care providers, home care aides, to keep people at home with the care that they need.

Transportation problems, especially in rural areas, can limit the access people have to reach services that they need. As people stop driving, they become more isolated. The rural bus service is very limited.

There are trends in the types of abuse that are occurring. On the one hand there are the perpetrators who are known, such as family members. On the other hand there are the perpetrators who are unknown, such as those who promote scams. For the known perpetrator, when an older adult is isolated, they may be more inclined to protect the perpetrator, which makes intervention more difficult than when the perpetrator is unknown. Education is needed for older adults to deal with both of these issues.

There is not enough variety of affordable residences for people to have an alternative to living in a situation where they are more vulnerable to abuse. There are few family type homes, and very few affordable beds available for assisted living. Many people are afraid of nursing homes, some are impoverished, and many people don't need nursing home level care. There are not enough affordable options for the housing needs in Tompkins County, and people have to go to other counties. People would rather stay in situations that they know are unsafe in order to avoid going out of the County to an affordable assisted living program.

Discharge planning from the hospital or nursing facility is the key for placing people out to the appropriate level of care. Sometimes they are sent home into a situation that the family considers okay but is clearly not safe for the person being discharged. It is a fight to make sure that things are set up ahead of time for them before they leave skilled care. It is aligning resources in the community, including Medicaid. Getting the documentation required for the Medicaid five year look-back can take time. It is much easier to get people home from rehab within the urban hubs. For some families outside of the urban hub, it is harder for them to get a person home from a rehab facility in the city; it is too much of a burden for those families.

In a down economy, some children or grandchildren will move into the home of the older adult because they themselves are struggling financially. This may not be good for the older adult.

When older individuals have no children, who will take care of their assets? People who are vulnerable are often people who have been independent and are in the situation of needing to have their finances managed. Unless one can afford an arrangement with a bank to manage finances, there is nothing to help.

NYS does not have mandatory reporting for elder abuse. How does it work in states that do have mandatory reporting? There are similarities with the problem of domestic violence when an individual chooses to remain in an abusive relationship despite the violence. The individual can make that choice. Similarly, an adult with capacity has the choice to give their money away to a perpetrator of financial exploitation. Sometimes naming the problem through mandated reporting allows for choices to pursue different options. If the person decides not to prosecute, at least by naming the problem of exploitation our community could develop a culture of noticing abuse and naming it, and eventually of taking responsibility to deal with it.

Naming the problem as abuse can increase the risk to the individual if the systems are not in place for intervention. There is no authority to protect adults suffering abuse as there is with children suffering abuse. Someone could be beaten for reporting abuse because there was no system to intervene and protect the person from reprisal. Always there are risks, and it is a matter of weighing the consequences.

Science is exploring the progression of erosion of capacity and increased vulnerability that allows someone to give away their resources and impoverish themselves. The progression goes on for decades until they reach a point where they may be found to legally lack capacity. The issue is for legal standards to be able to protect someone, sometimes from themselves. What are the signals to look for, where is the line when someone is incapable? Because someone's memory is impaired does not mean that they are incapable of making good decisions.

There are different issues for people who have mental health issues, rather than dementia, and consequences may be exacerbated as the individual ages. The decisions that they are making may have severe consequences that could have been absorbed when they were younger. When these individuals go to the hospital and then rehab, they cannot be allowed to go home to the environment that they are used to and may have lived in all their lives because it is an unsafe discharge. And they will not get along in senior housing because they do not conform, so they will get kicked out. As adults, they do have the choice to not bathe, collect what others see as garbage, etc.

Phone scams in particular are increasing and becoming more sophisticated. Some are coming from overseas. Seniors are not sure how to respond and do not know who to call. Seniors will respond to phone solicitations and order items that they will never use, give to charities, order magazine subscriptions, etc. that expend their resources.

## Recommendations and Priorities

*Listed in order of preference voted by participants:*

- Convey practical information to individuals and families about scams, magazine subscriptions, and over solicitation by charities using effective messages presented by physicians, lawyers, and police and other trusted sources. Delivery methods could include: televised messages, stickers to put on telephones, a checklist that offer simple concrete guidelines.
- Expand funding and delivery of respite and friendly visitor services.
- Create a sufficient number of appropriate affordable housing options beyond the limits of assisted living as currently regulated in NYS.
- Reach individuals who have no children or other support and who have not had help in the past in order to help them to plan for future needs.
- Develop a Medicaid funded Assisted Living Program (ALP) in Tompkins County.
- Develop a sufficient number of secure housing units to provide affordable dementia care and housing in Tompkins County.
- Organize additional congregate meal sites, especially in rural areas so that people can eat and socialize, listen to speakers, and get easy access to information and services.
- Support housing needs of seniors when representatives of agencies or organizations, or private individuals come before decision making bodies.
- Offer training for staff of financial institutions so that they can recognize financial exploitation or related problems.
- Continue to provide presentations by the Attorney General's Office and Cornell Cooperative Extension staff on the range of scams, fraud, and such problems.

*Additional recommendations without votes:*

- Raise awareness among older adults about what abuse actually is, and about financial abuse by family members in particular.
- Spell out what happens when authorities such as Adult Protective Services intervene so that people know what the steps of the process are and what could happen to the perpetrator.
- Assist older adults and caregivers to understand the Medicaid five year look-back period, and the fact that their assets will be used to pay for necessary care should

- Distribute information about scams active in a locality through Meals on Wheels deliveries.
- Publicize the number to call for reporting scams and what happens when you call the number.
- Formalize a multidisciplinary team with representatives of the District Attorney's Office, APS, police and other providers to address elder financial exploitation and abuse.
- Customize relevant elements of the Elder Justice Roadmap to implement in Tompkins County.
- Research the policies, best practices and outcomes of other states where there is mandated reporting of abuse of older adults.
- Promote broader financial education for younger and older adults to differentiate between needs and wants, curb impulse spending, and help people to comprehend the consequences of outspending their resources.
- Offer regular space and time through the OFA for providing education and promoting awareness of frauds, scams and financial exploitation, such as is currently done through the *Senior Circle* quarterly newsletter.
- Establish one phone number to engage help from a provider to get an overview of someone's finances who shows indications of financial abuse, and perhaps help the person to voluntarily turn over their financial management responsibilities.
- Provide staff who represent or speak the language of minority communities who might be more vulnerable, who do not traditionally ask for services, who do not trust service providers, who prefer to take care of their own or who regard it as losing face if they ask for services.
- Attend health fairs and congregate senior housing with information, a booth or table to offer outreach and information about financial exploitation, abuse, and scams.