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CEJC News

Gearing up for new legislative season

Two measures proposed in CEJC's *Improving California's Response to Elder, Abuse, and Exploitation: A Blueprint* are currently making their way through the state legislative process:

SB 60 (Wright), sponsored by the California Commission on Aging and spearheaded by **Carol Sewell**, would specify that elder and dependent adult victims of financial crimes are eligible for the same range of services provided for

other victims. Financial counseling to mitigate the impact of the crimes is also included as an allowable service. Letters can be faxed to the Senate Public Safety Committee at 916-445-4688.

AB 140 (Dickinson), sponsored by California Advocates for Nursing Home Reform and spearheaded by attorney **Steve Riess**, this bill would define undue influence in various areas of law, including wills, trusts, and conservatorships. Support letters should be sent to the Assembly Judiciary Committee, State Capitol, P.O. Box 942849, Sacramento, CA 94249-0025.

Tell us your news!



Every day brings important new developments in elder justice and abuse prevention. Help us keep our colleagues informed by sharing updates on your new products, projects, and activities. We also welcome your thoughts and comments. You can reach us by [clicking here](#).

State and local news

New laws:

Several newly enacted elder justice laws with far-reaching impact are now being implemented:

AB 40 (Yamada), which went into effect on January 1st, mandates the reporting of abuse in nursing homes and assisted living facilities to both the Long-Term Care Ombudsman and to law enforcement.

AB 1525 (Allen), which goes into effect on April 1, 2013, requires money transmission companies to train agents to recognize and respond to elder financial abuse and to train newly appointed agents within one month of appointment. The law also mandates that persons handling money transmissions must report suspected elder financial abuse.

California AG getting tough on abuse in care facilities

The Bureau of MediCal Fraud and Elder Abuse recently announced that it has charged Silvia Cata, owner of Super Home Care in Sacramento, with felony elder abuse and involuntary manslaughter in what is believed to be the first criminal prosecution in California involving an elder-care provider. The victim, Georgia Holzmeister, 88, who suffered from dementia and lived at Super Home Care since 2007, died last June after suffering from stage 4 pressure ulcers that became septic. Last year, the AG's office announced plans to step up efforts to build criminal cases against facilities operators statewide. In California and in other states, criminal prosecutions of nursing home operators are rare, with allegations of abuse or neglect frequently handled in civil courts. For more, [click here](#).



California Appellate Court denies trustees' and attorneys' fees

The 6th District Court of Appeals has ruled that a Silicon Valley trustee and his two

The 9th District Court of Appeals has ruled that a Silicon Valley trustee and his two attorneys are not entitled to compensation after a multiyear dispute over excessive fees to briefly manage a San Jose man's life savings. For more, [click here](#).

Sonoma County receives federal abuse prevention grant

A \$400,000 federal grant from the US Department of Justice will enable Sonoma County law enforcement to increase efforts to combat elder abuse. The grant will be used for training law enforcement officers, judges, prosecutors, and others about the proper investigation and prosecution of elder abuse. For more, [click here](#).

News from elsewhere

Hospital receives millions to study elder abuse in New York

Weill Cornell Medical College has received a \$13.6 million gift from the Irene Diamond Fund to develop a standardized elder abuse data collection system and to study effective ways to respond to reports. The gift will also help expand their Elder Abuse and Neglect Project, which conducts research and operates the NYC Elder Abuse Center.



Colorado Task Force to study elder abuse

A task force created by the Colorado legislature to study elder abuse has recommended mandatory reporting for the mistreatment and exploitation of persons over 70 years old. Colorado is one of only three states that does not have a mandatory reporting law. Governor John Hickenlooper has dedicated \$5 million to develop the policies and procedures needed for adult protective services to be adequately resourced.

National news



Senate votes to reauthorize VAWA

The Senate has voted to reauthorize the Violence Against Women Act, which funds programs to prevent and prosecute domestic violence and sexual assault crimes and provide services for victims. The law has been reauthorized in the past with little opposition, but this year after considerable resistance, the final version expands programs and services to LGBT victims, protections and visa waivers for undocumented immigrant victims and their children, and grants tribal jurisdiction over domestic violence crimes committed on Indian territory by nonnatives.

Senate to investigate Jamaican scams

Senator Susan Collins, a Maine Republican and ranking minority member of the Special Committee on Aging, has announced the formation of a panel to hold hearings on a variety of scams targeting senior citizens, including the Jamaican lottery.

Feds charge elder abuse as hate crime

For the first time, the federal government used hate crime laws to bring charges against five people who allegedly imprisoned several developmentally disabled people, depriving them of food and medical attention, as they were moved across several states as part of a scheme to steal their Social Security benefits.

US Task Force advises against screening for elder abuse

The United States Preventive Services Task Force (USPSTF) has released updated standards for screening to detect intimate partner violence and the abuse of elderly and vulnerable adults. The report advises against screening for elder and vulnerable abuse when evidence is insufficient to assess its benefits and potential harm. The final recommendation can be found in the January 22, 2013 online edition of *Annals of Internal Medicine*. To view the recommendation and the evidence upon which it is based, click [here](#). A fact sheet explaining the recommendation is available [here](#).



Medicare punishes hospitals for excessive readmissions

More than one million Americans are rehospitalized only weeks after discharge for conditions that could have been prevented. Now Medicare has begun fining hospitals with excessive readmissions. For more, [click here](#).

Recent Research

A collaborative approach to multidisciplinary teams in Sonoma County

Developed by the county's Adult and Aging Services Division, this report makes recommendations for strengthening its own MDTs as well as those in other counties, and has been disseminated to community partners to foster increased collaboration. For copies, [click here](#).



Alzheimer's Association offers advice on detecting cognitive impairments

The Alzheimer's Association released guidelines to help health care providers detect cognitive impairment as part of the Medicare Annual Wellness visit. Although physicians had been required to include detection of cognitive impairment as part of the exam since its inception in January 2011, there has been scant comprehensive guidance for physicians on how to conduct the assessments, which are used to determine whether further evaluation is needed. The

tool was developed in consultation with an expert workgroup. For more, [click here](#).

For-Profit nursing homes fuel rise in fraud and abuse charges

According to an investigation by *Bloomberg News*, "the rise of for-profit nursing homes is proving tragic for some of the nation's most vulnerable people, and has resulted in a spike in waste, fraud, and abuse charges brought by federal authorities." The report revealed that 30 percent of claims sampled from for-profit homes were deemed improper, compared to just 12 percent from nonprofits. Cases filed against the firms by law enforcement and by families of patients who died allege that for-profit nursing home companies pressure facility managers to minimize the number of employees and keep down their hours to save costs. To read the full article, [click here](#).

National Guardianship Network Summit proceedings available

Proceedings of the 2011 Third National Guardianship Summit are now available in a special issue of the Utah Law Review. To view background papers commissioned for the Summit and its recommendations, [click here](#).

BJS finds drop in partner abuse

According to a new report issued by the Bureau of Justice Statistics (BJS), intimate partner violence dropped 64 percent from 1993 to 2010. Intimate partner violence includes rape, sexual assault, robbery, aggravated assault, and simple assault by a current or former spouse, boyfriend, or girlfriend. For more, [click here](#).

Resources

Adult abuse mobile app for law enforcement

As reported previously, the Institute on Aging and the Center of Excellence on Elder Abuse & Neglect collaborated to create an app to assist law enforcement handle elder abuse cases. The app is now available for use on Android devices, iPhones and iPads. For Blackberries and other devices, it can be viewed using mobile web browsers. Content area recommendations and materials were provided by colleagues from law enforcement, civil law, and medicine. To download the app, [click here](#).



OJP fact sheet on mortgage fraud

The Office of Justice Programs of the Bureau of Justice Assistance has posted a fact sheet on mortgage fraud that highlights activities conducted by state and local site-based grantees, including risk assessment for mortgage fraud, investigating reports, issuing search warrants and subpoenas, assisting with indictment of defendants, securing restitution for victims, and identifying new techniques for prevention. To view the fact sheet, [click here](#).

Reporting on nursing homes

As reported previously, the nonprofit investigative public interest newsroom ProPublica has developed an app to make it easier for reporters to gather data on nursing homes. The app was used to produce "Two Deaths, Wildly Different Penalties," an article by Charles Ornstein and Lena Groeger who "found big inconsistencies in the way in which the government punishes nursing homes for serious neglect and misconduct, sometimes resulting in deaths." In one example, an East Texas facility was fined only \$9,500 by CMS after a resident choked to death on a cookie in front of a staff untrained to handle emergencies or even call 911. Yet a South Carolina company, Unihealth Post-Acute Care-North Augusta, was fined \$305,370 following the death of a resident who pulled out her breathing tube and died because the staff failed to take appropriate steps to keep her from harming herself. To see the article, [click here](#).

Curriculum on assessing capacity

The Rush University Medical Center and the ABA Commission on Law and Aging have released an interactive educational curriculum funded by The Retirement Research Foundation on assessing the capacity of older adults. The course is aimed at physicians, but is useful as well for other health care clinicians and students. The curriculum features six modules: the importance of evaluating patients' capacities; key principles and practices; the evaluation process and content; specific capacities and situation; when to conduct an evaluation yourself and when to refer; and working with courts in guardianship

conduct an evaluation, prepare and submit a report, and winning that court in guardianship proceedings. The curriculum also includes videos, a pocket reference card, a glossary, a resource list, and is downloadable. For more information, [click here](#).

Special feature

Mary Joy Quinn on guardianship mediation: Threat or benefit to abuse victims?



Mary Joy Quinn, shown here receiving a Service Recognition Award from Legal Assistance for Seniors last year for her leadership in protecting elders, with Mary Twomey and Helen Karr, Esq. who also received awards. Mary Joy Quinn is the former director of the SF Probate courts.

In 2007, the legislative assembly in British Columbia passed laws making mediation mandatory in contested guardianship applications, some of which involve elderly victims of abuse even though scant research exists on mediation in elder abuse situations. In a recent article that appears in the *International Perspectives In Victimology*, Joan Braun, of the Vista Law Group, BC Elder Learning and Mediation Institute, examines existing research on elder mediation and abuse, draws parallels to research on mediation in other abuse situations, provides examples from existing programs, analyzes the impact of the new legislation on older adults, and makes recommendations for further research and next steps. For more on the article, [click here](#).

Elder abuse and guardianship expert Mary Joy Quinn, former Director of Probate in San Francisco and current president of the National Guardianship Network, offers her perspective on the article and mediation in guardianships in general:

Mediation in guardianship is complicated by the emotional, mental, or physical impairments of the elders involved. Often the reason for the guardianship is to remove decision making from someone who has been or is being abusive. When there is conflict, mediation is more flexible than court proceedings because the parties can creatively fashion their own agreements. Moreover, all parties, including the elder, have input in the process, and are more likely to adhere to an agreement they have made.

Mediation protocols and processes, however, must be thoughtful and careful to ensure that the elder is not abused. Although mediators must be educated about the types of abuse and its dynamics, they should not bear the burden of detecting abuse. That is the role of an advocate for the elder, preferably an attorney knowledgeable about elder law and elder abuse, who can ensure that the elder's point of view and desires are paramount in the mediation process as well as making certain that the elder is respected. Another component of proper protocol is that the mediation agreement is reviewed and approved by the court to further protect the elder in keeping with the role of the guardianship court as a court of protection.

Mediation is an indispensable tool in guardianship, especially where there is conflict, but only if the structure of the mediation process ensures that the focus is on the elder.

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