

Safe Seniors

Newsletter for the Prevention of Elder Abuse in San Diego County

Ombudsman Volunteers Counting Their Successes One Resident at a Time

“It’s those little victories,” says Chris O’Connell, manager of the County’s Long Term Care Ombudsman program. The little victories can mean a lot to older adults living in skilled nursing facilities or residential care facilities. When someone’s unique need can be met, that’s an accomplishment that might change someone’s quality of life.

Although Ombudsman volunteers are always on the lookout for indicators of elder abuse in facilities, many times the issues they learn about from residents are not major mistreatment or theft, but individual needs that are not being met. Often facility staff might not even be aware of the person’s need, according to Ombudsman volunteer Linda Prager, who helps residents in inland North County.

“A lot of times, (the resident) doesn’t want to bother the staff,” she says, so the need goes unexpressed. But as an outsider whose role is to be an advocate for the resident, the Ombudsman volunteer can zero in on those special requests.

Prager was visiting seniors in a small residential care home and she asked one man what he thought of the food. He said that just once he would like to have German spaghetti. She asked him how the dish was made and went to the owner of the board and



Ombudsman Linda Prager with resident

care who said she would be glad to fix that for him.

“Now she makes it for him periodically,” Prager says. “It’s a little thing, but for him, it’s a taste of home.”

The little victories can be as simple as moving a toilet paper roll, says Jack Miller, an Ombudsman volunteer for three facilities in coastal North County. A resident of one facility was disabled in such a way that he couldn’t easily reach the toilet paper.

“The caretaker never got around to making the change,” Jack says, so he found a repairman and together they put the toilet paper roll in an accessible place. “Since (the man) was continent, he was so appreciative of being able to reach the toilet paper.

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New State Bureau to Protect Seniors and Their Money

*From Consumer Connection
CA Department of Consumer Affairs*

A professional fiduciary can provide critical services to seniors unable to handle their own needs. The fiduciary can arrange for the senior’s daily care, housing, and medical needs, and can handle financial matters ranging from basic bill paying to investments.

You would expect a person who is serving as a professional fiduciary to be trained, experienced, knowledgeable and honest. After July 1, 2008, you should also expect that person to be licensed. On and after that date, private, professional fiduciaries must hold a valid license from the Professional Fiduciaries Bureau, the newly established bureau within the California Department of Consumer Affairs.

“The bureau will play a significant role in regulating the profession,” said Mellonie Yang, DCA’s consultant for the Professional Fiduciaries Bureau. Yang is an attorney who has been involved in senior protection issues for nearly 10 years.

“The bureau’s licensing, enforcement and regulation are of critical importance to consumers. People’s lives, homes and living arrangements are in the hands of these professionals,” she added. “The number one goal of the bureau will be consumer protection.”

Yang estimates that 600 to 1,000 fiduciaries, serving thousands of clients, mostly seniors with dementia, will need to be licensed statewide.

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The Elder Abuse Reporting Line: 1-800-510-2020

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She has been working since March of this year to build the bureau.

Private conservators and guardians must be appointed by the courts before they can make health care and financial decisions on someone's behalf. The process for court appointment begins by submitting a petition to a county probate court. An unscrupulous person, trying to gain control of a senior's money or property, may falsely tell a judge that an elder has dementia or other mental impairment and is unable to appear in court for the hearing. Most often it is the frail, vulnerable senior who is victimized this way. Once a conservator is



named, the senior may no longer be in control of his or her money, health care, home, living arrangements, or other details of daily life. Probate courts are supposed to oversee the conservators they appoint, but many courts face backlogs of cases and a shortage of trained staff, meaning that the oversight may be inadequate.

The need for licensing and more aggressive oversight of private conservators gained prominence in late 2005 after a series of *Los Angeles Times* articles detailed alleged exploitation by unscrupulous fiduciaries who scammed frail seniors out of their life savings, and even sold their homes out from under them. The stories estimated that about 500 fiduciaries look after 4,600 clients and an estimated \$1.5 billion in assets statewide. With billions of dollars in assets at stake and the state's rapidly growing population of seniors, there is clearly potential for abuse.

The Legislature recognized the problem, and last year passed a package of four bills, which represented a sweeping reform of private fiduciaries. In signing the package, Gov. Arnold Schwarzenegger said, "We have a responsibility to help ensure that individuals entrusted with the wellbeing of our most vulnerable citizens are not taking advantage of or harming them." Senate Bill 1550 (Figueroa, Chapter 491, Statutes of 2006), which created the Professional Fiduciaries Bureau, was one of the measures. The bill package, called the Omnibus Conservatorship and Guardianship Reform Act of 2006, is the first major overhaul of the private conservator system in decades and a significant boost in consumer protection.

The new licensing program affects only a person who works as a private, professional fiduciary, which the Professional Fiduciaries Act defines as "someone who performs conservator or guardian duties for two or more people he or

she is not related to, as well as someone who acts as a trustee or specified agent for three or more people or families he or she is not related to." Thus, someone who only handles a family member's financial or medical affairs does not need a professional fiduciary license. A certified public accountant or attorney, licensed in California, is not required to have a professional fiduciary license. Public guardians, who work for the counties, are also exempt.

The Professional Fiduciary Association of California (PFAC), an industry trade group, supports the additional oversight and regulation. In fact, PFAC sponsored SB 1550,

which created the bureau. The organization emphasizes continuing education, mentoring and a strict code of ethics. It has 270 members statewide. In 2004, its members managed approximately \$4.6 billion in cash and assets for its clients, according to the PFAC Web site, www.pfac-pro.org. PFAC maintains referral listings on its Web site for consumers looking for a private fiduciary. The right conservator/fiduciary can bring stability to the lives of seniors with dementia by arranging appropriate health care and living arrangements and managing the senior's finances.

The new laws also require greater supervision of the work of fiduciaries by the courts that appoint them. Courts will have access to the bureau's confidential records, and will be able to check license status, complaint history, and other information. The court oversight at the local level is the reason Yang said she views the courts "as a partner in the licensing and enforcement work" of the bureau. The bureau will be able to take disciplinary action against fiduciaries who violate the law. The action could include fines, sanctions, suspension, even revocation of a license.

These reforms may have been long-needed, but they are also just in time. According the Professional Fiduciaries Act, California's population is growing at an increasing rate, and the growth in the number of people over 65 is surpassing that in other states. The U.S. Census Bureau projects that the number of people age 65 and older in California will grow from 3.6 million in 2000 to 6.2 million in 2020, an increase of 72 percent.

'We have a responsibility to help ensure that individuals entrusted with the wellbeing of our most vulnerable citizens are not taking advantage of or harming them.'
-- Gov. Arnold Schwarzenegger

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Elder Abuse Prosecutions

District Attorney's Office

Rita Ahrens: Pled guilty to felony burglary (against a person 65 years or older or disabled). She befriended a 75-year-old lady and her 64-year-old husband. Then the defendant stole a credit card belonging to the victim and used it twice. Later, she returned to the victim's house to steal several rings. The three rings were estimated to have a value of \$7,700. All three rings were recovered. She was sentenced to three years in prison.

Dennis Butts: Pled guilty to willful cruelty to an elder/dependent adult. He approached an 85-year-old disabled

man, who was in the passenger seat of a vehicle. He was holding a metal pipe and demanded money. After being told that there was no money, he swung the pipe, missing the elderly man, but hitting the side mirror. The defendant was sentenced to two years in prison.

Juan Rodriguez Baez: Pled guilty to carjacking (against a person 65 years or older or disabled). He wrestled car keys away from an 81-year-old car owner and tried to drive off, but was apprehended by heroic bystanders. He was sentenced to 4 years in prison.

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Linda Prager talks with the facility's social worker about a resident's needs

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“These might be small issues on the surface, but they're important. People in facilities can feel that they're useless. If you just listen to them and take what they say seriously, if you can resolve that small issue, they feel they're of value.”

Ombudsman volunteer Rick Chapman agrees: “Sometimes I get excited just getting somebody's shirt returned to them from the laundry. Lost clothing is the biggest complaint we get.”

And working with conflicts residents are having with someone on the staff can be rewarding, he says. “Just to be able to get staff members to have a bit more respect, that's a good victory. Some 95 percent (of facility staff) are hardworking folks trying to

do the best job possible, but you run into the guy who makes life miserable for these residents.”

Some of the issues the volunteers deal with are unusual. At one site, two residents met and fell in love. They didn't plan to get married, but they wanted to live in the same room at the facility....and they wanted private time for intimacy. This created quite a stir among staff members and other residents who learned about it. Both of the residents were mentally capable of making their own decisions and after confirming with the pair that this change was really what they both wanted, Prager advocated for them. The facility made it happen.

In a different situation with another resident, Prager felt her intervention was particularly important. She sat for

a while with a resident who has trouble speaking even though she is mentally sharp. Getting information from this resident takes a lot of patience. The resident eventually told her that she “hurt all the time.” Prager, a retired registered nurse, went to the nurses' station and talked with them about the resident's pain regimen. She found out that the resident was only being given pain medication when she complained about discomfort to them, which she seldom did. After Prager told the nurses what the resident said, they put her on continuous pain medication, which has made a significant difference in her quality of life.

The volunteers emphasize that the key aspect of their roles is follow-through. “You have to keep your word,” says Miller. “If you promise an older person something, it's your responsibility to follow up and keep your word. They depend on it. We're not social visitors. We're on the lookout for quality of life regarding the care they're receiving.”

Since there are more than 100 skilled nursing facilities and 650 residential care facilities in San Diego County, the Ombudsman program continually seeks more dedicated individuals to advocate for residents.

The next orientation for the program will be offered in March. There is 40 hours of training, then 10 hours of mentoring by an experienced Ombudsman. To find out more about the program and/or sign up for the orientation, call (800) 640-4661.



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Bob Noy and Sampson Yonko:

Pled guilty to conspiracy to commit a crime against an elder and false imprisonment. A grandfather and grandson were running an "I can repair your dent" scam in a Clairemont parking lot. The pair pulled up behind a 79-year-old victim and called out that they fix dents. After the victim refused, they stayed parked right behind her. She panicked and accidentally reversed into their car and the car that was parked in front of her. Police were called. Both were sentenced to 365 days in custody and ordered to pay restitution.

SD City Attorney's Office

Vincent Chavez: The defendant violated the terms of a restraining order by going into his elderly father's home. He refused to leave, so his father called the police. Defendant was sentenced to 180 days jail concurrent with his parole violation.

National Web Site on Elder Abuse Provides Resources and Much More

The federal Administration on Aging (AoA) has established a new Web site for the National Center on Elder Abuse: www.ncea.aoa.gov.

The National Center on Elder Abuse (NCEA) serves as a resource center dedicated to the prevention of elder mistreatment. Among the resources on the redesigned Web site, users will find information about:

- How to find help if you are worried about a senior in your community.
- Definitions, signs, and risks of elder mistreatment.
- Resources for caregivers.

NCEA will assist AoA in providing leadership to the field of elder justice by:

- Expanding multi-disciplinary approaches to addressing elder mistreatment by awarding \$100,000 each year in mini-grants to local community efforts.
- Identifying the training needs of five key professions that work to address elder mistreatment and, based on the needs assessment, efficiently and effectively targeting NCEA training efforts.
- Undertaking a national public awareness campaign.

To learn more about the National Center on Elder Abuse, its mission, and activities to prevent and address elder abuse, neglect and exploitation, visit: www.ncea.aoa.gov.