

Safe Seniors

Newsletter for the Prevention of Elder Abuse in San Diego County

Tips to Avoid Fraud Part of BBB Expo



District Attorney Bonnie Dumanis, above, and Jay Foley with the Identity Theft Resource Center, left, presented tips on how to avoid being a victim of fraud, scams and identity theft at the recent Better Business Bureau Consumer Expo. Formerly called ScamJam, this event was broadened to include exhibits by a variety of businesses that are BBB members.

East County Meets About Elder Abuse

When Adult Protective Services supervisor for the East County, Joan Tierney, began her job five years ago, there was one unit for that region; now there are two. In fiscal year 2000-01, there were 1443 elder abuse reports for the area; this past fiscal year there were 2080.

With the jump in reports and cases, “we have to work smarter, with more collaborating and understanding among all the different partners,” she says. Up until this year, there had been no forum for APS, law enforcement and prosecutors in East County to talk about what they’re doing, or where any gap in service might be, she says.

She and her supervisor at the time, Chuck Matthews, discussed their concerns with Paul Greenwood, chief of the Elder Abuse Prosecution Unit for the District Attorney’s office, and together they established a quarterly meeting for not only East County APS, law enforcement and prosecutors, but also social service providers, first responders, such as paramedics and fire personnel, and senior advocates.

“The response was phenomenal,” Joan says. “We had to bring in more chairs! People were saying (abuse) is a huge problem, how can we help?”

She said that during the first meeting, there was a “lot of concern

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Protecting Residents Rights

Legal Tool Gets Action in Nursing Homes

Earlier this year, a local nursing home sent an elderly man to the hospital and refused to take him back, saying that he was mentally ill and had acted dangerously. The hospital staff determined that the client was stable, that there had been a communications problem and that the nursing home should take him back. Joining the man in the middle of this tug of war was the Nursing Home Rights Enforcement Project (NHREP), a new program of the nonprofit Elder Law & Advocacy.

The NHREP became the man’s legal advocate and a fair hearing with the state Department of Health

determined that the nursing home was required to reopen its doors to this former resident. The nursing home appealed the decision to the Superior Court, but the ruling remained.

Sometimes, a legal strong-arm is all that works. The County’s Long Term Care Ombudsman program had also been involved in this case and linked with NHREP for this extra muscle.

“This project has quickly become our backup to make sure what needs to be done for residents is being done,” says Sharon Cordice, coordinator for

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

the Ombudsman program. "Once a lawyer gets involved, people seem to listen."

The California Advocates for Nursing Home Reform (CANHR) was the impetus to create this project, according to Tony Chicotel, NHREP lead attorney. Over many years of advocating for resident rights, CANHR saw the need for legal intervention on their behalf, a feeling echoed by Cordice:

"Our Ombudsman office runs into situations where the right of the patient is being ignored and we ask the facility how this is going to be remedied. Sometimes they blatantly say, 'We're not going to do anything.'"

Previously, the only option for the Ombudsman office was to contact the state Department of Health Services, the licensing agency responsible for regulating nursing homes. But even if this department cites a facility for a problem, the process can take a long time, Cordice says.

A threat of legal action plus monetary awards has had an more immediate impact. The courts can make a facility pay for attorney fees, plus there can be a monetary award for residents, up to \$500 per rights violation.

Nearly all of the cases received since the project began in January have been successfully resolved without litigation. The following are some of cases:



Tony Chicotel, lead attorney with NHREP, promises to be tough on the nursing homes that don't respect the rights of their residents.

A resident complained that a facility was holding his money and refused to return it, plus did not provide any account statement. The resident put his request in writing, but the facility said that the computer system was down. NHREP wrote a letter on the resident's behalf, and the money and an accounting statement were given to the resident less than 24 hours after the facility received the letter.

A resident was upset that the telephone was located near a nurses station and the elevators, preventing confidential phone calls. NHREP intervened, citing federal and state laws guaranteeing confidentiality of resident phone calls. Soon the phones were moved into private alcoves.

A resident was not receiving

doctor-prescribed pain medication and was in tremendous pain from chronic leg and back problems. The nurse consultant for NHREP reviewed the woman's chart and a letter was sent to the facility administrator. The pain medication was soon provided and the resident reported doing much better.

"Most of the nursing homes and residential care facilities are responsive to the requests and concerns of their residents and the families," Cordice says. "But for those that don't get it, we need to work together with licensing and this new legal advocate to make a difference."

All of the NHREP services are free to facility residents, although a donation is always welcomed. The project is funded through Jan. 31, 2006, by the California Endowment and the San Diego County Bar Foundation, according to Chicotel. The funding is partial, so the project continues to look for additional money. Eventually, the project will become more self-sustaining as attorney fees are awarded by the courts.

If a resident or family member has a problem with a facility, Chicotel recommends that the County's Ombudsman program be contacted first, unless "waiting a week or two would be a real risk to the resident's health, safety, or future functioning."

To contact the Ombudsman program, call (800) 640-4661. For the Nursing Home Rights Enforcement Project, call (858) 565-1392.

about seniors that have adult children with substance abuse. They allow them into their house and they keep getting abused. The community at large is feeling frustrated."

The group discussed possible steps toward working on this problem, such as establishing peer support for the abuse victims. "These are the kinds of things that are coming out of having this meeting. People feel they can be part of the solution."

The second meeting focused on financial abuse and local scams. "We talked about possibly sending out fliers about scams with home-delivered meals and putting up notices at nutrition sites."

Joan says getting together this way also provides "an opportunity to talk about what's unique about East County, that we have the Back Country, with a lot of people living in that area who tend to spend a lot of time alone. We want to

respect that, but there are not a lot of resources for them and that makes them more vulnerable (for abuse)."

The meetings also allow groups to better understand each other's policies and procedures. A lot of dialoguing goes on before and after the meeting, too. She recommend that other part of San Diego County considering having the same type of get-together on this issue.

"I'm sold on this meeting," Joan says. "Looking at things in a regional perspective is the only way to go. You get all the partners together and get community buy-in to recognize the problem and say we have to do something about it. APS can't do it alone, or law enforcement; everybody has to sit at the table."

The next East Region elder abuse meeting will be held at 11:30 a.m. on Thursday, Sept. 16, at HHS (Children's Services) Conference Room, Albertson's Shopping Plaza, 198 W. Main St, Suite 104, El Cajon.

Elder Abuse Legislation Moves to Governor

By Noelle Dorman
Sen. Dede Alpert's Office

Several bills have passed the State Legislature and are now on the governor's desk awaiting his signature. Others didn't make it that far. Here are some key bills from this legislative session and where they stand. To get the full analysis of a bill, or to check the status, go online to www.sen.ca.gov, or click "Legislate" on the Network of Care Web site: www.sandiego.networkofcare.org. Also, you can always contact your state legislators' offices.

AB 2316 (Chan) This bill creates the Life and Annuity Consumer Protection Fund within the Insurance Fund. The money in this fund will come from a \$1 fee levied against insurers based upon each life insurance or annuity policy, with a value of \$15,000 or more, issued to a resident of this state. The funds would be dedicated exclusively to protecting consumers from life insurance and annuity fraud. This bill instructs the Insurance Commissioner to distribute half of the funds within the Department of Insurance for senior consumer protection functions, and half of the funds to selected district attorney offices for investigating and prosecuting senior financial abuse cases. The program will sunset on Jan. 1, 2010. **Sent to Governor Aug. 25.**

AB 2474 (Wolk) This bill would have revised the definition of mandated reporter by adding additional individuals, but would limit the mandated reporting for these individuals to



financial abuse. Additions include a) accountants; b) bankers; c) credit union officers; d) insurance agents; e) investment officers; f) loan officers; g) real estate brokers or agents; h) stockbrokers; i) title insurance company officers; and, j) any persons who provides financial services. **The bill is dead, but expected to be reintroduced next year as a new bill.**

AB 2611 (Simitian) This bill increases criminal penalties related to elder and dependent adult abuse and makes them applicable to a person who knows or reasonably should know that the potential victim is an elder or dependent adult. In addition, this bill separates financial abuse from the current statute providing enhanced civil remedies to victims of elder or dependent adult abuse, and applies a "preponderance of evidence" standard of proof for the commission of financial abuse, instead of the current "clear and convincing evidence" standard. **Sent to Governor Aug. 25.**

AB 3095 (Committee on Aging and Long-term Care) Existing law proscribes various crimes committed against an elder or dependent adult related to physical and financial abuse, including causing or permitting an elder or dependent adult to suffer or inflicting unjustifiable physical pain or mental suffering and violating any provision of law proscribing theft, embezzlement, forgery, fraud, or identity theft, with respect to the person or property of an elder or dependent adult. This bill provides that in any case in which a person is convicted of violating these provisions the court may order, as a condition of probation, that the defendant be placed in an appropriate counseling program. This bill would require the defendant to pay the expense of his or her participation in the counseling program. A court should take into consideration the ability of the defendant to pay for the counseling. No defendant will be denied probation due to his or her inability to pay. **Sent to Governor Aug. 25.**

SB 1305 (Vasconcellos) This bill would have required the Judicial Council, to the extent resources are available, to establish within the Administrative Office of the Courts a unit to assess the treatment of elder and dependent adult abuse cases in the courts, and to devise administrative and educational strategies for improving the handling and coordination of these cases in California's civil and

(LEGISLATION -- Continued on Page 4)

Use of Social Security Numbers on Accounts Questioned

There are still health providers in our county who are using Social Security numbers as account numbers and ID numbers, which is troubling because of the risk of identity theft. Linda Foley with the Identity Theft Resource Center provides information about California law in this regard:

TITLE 1.81.1. Civil Code Section: 1798.85 states: Individuals and non-governmental entities must not publicly display or post SSN; print SSN on identification cards or badges; require people to transmit an SSN over the Internet unless the connection is secure or the number is encrypted;

require people to log onto a Web site using an SSN without a password; print SSNs on anything mailed to a customer unless required by law or the document is an application

Health care and insurance companies must have been complying with these requirements for new individual and group policyholders as of January of this year, and by July 1, 2005, must comply with all requirements for all policyholders, even long-standing patients or policyholders.

You can contact the Identity Theft Resource Center at (858) 693-7935, or see Web Site: www.idtheftcenter.org.



CITY OF SAN DIEGO



AGING & INDEPENDENCE SERVICES
COUNTY OF SAN DIEGO HEALTH AND HUMAN SERVICES AGENCY

Safe Seniors is published quarterly by the San Diego City Attorney's Office, and the County of San Diego's District Attorney's Office and Aging & Independence Services 9335 Hazard Way, San Diego, CA 92123
Editor: Denise G. Nelesen, LCSW
Phone: (858) 505-6474
Fax: (858) 495-5080

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criminal courts. The bill would also have required the Judicial Council to incorporate elder and dependent adult abuse issues into its existing educational programs for judicial officers, court staff, and other public offices and public entities, as specified. **Held in Assembly Appropriations Committee – looks dead.**

SB 1475 (Vasconcellos) This bill requires the office of the Attorney General, in consultation with the California Health and Human Services Agency, the Department of Insurance, and the Department of Corporations, to convene an Elder and Dependent Adult Abuse Prevention and Prosecution Coordinating Council, to bring together representatives of various entities responsible for investigating, reporting, and prosecuting elder and dependent adult abuse cases. The bill sets forth the council membership, and directs the Council to develop a strategic master plan to accomplish

specified goals relating to elder and dependent adult abuse prevention and prosecution. The council is required to report its findings and recommendations to the Legislature by Jan., 1, 2006. **Sent to Governor Aug. 25.**

SB 1644 (Romero) Existing law 1) Allows each county to establish an interagency elder death team to assist local agencies in identifying and reviewing suspicious elder deaths and facilitating communication among persons involved in investigating elder abuse cases, and 2) Establishes, by Jan. 1, 2005, the Internet-based electronic death registration system within DHS. This bill requires a local registrar of deaths, upon the request of a member of a county elder death review team (EDRT), to make available and assist the electronic transfer of information from a certificate of death to the county EDRT in any county that has access to the statewide system. **Sent to Governor Aug. 26.**

Elder Abuse Prosecutions

City Attorney's Office

Robert Taylor: Pled guilty to misdemeanor elder abuse, and sentenced to 115 days in jail.

John Vitella: Pled guilty to misdemeanor elder abuse and possession of a controlled substance. He was sentenced to 90 days in jail and 90 days in an alcohol rehabilitation center.

Shea Larson: Pled guilty to a misdemeanor violation of a domestic violence court order. He was sentenced to 30 days in jail with an added 30 days for violating terms of probation in a previous elder abuse case.

James Graves: Pled guilty to a misdemeanor violation involving criminal threats. He was sentenced to one year in jail.

Christopher Van Dyke, Cheryl Turner and Marco Padilla: Pled guilty to separate charges of misdemeanor elder abuse; each was sentenced to three years of summary probation.