

VULNERABLE ADULT PROTECTION ORDERS

By Rachel A. Brooks

What is a Vulnerable Adult Protection Order?

- Slang term is “VAPO”
- A type of restraining order
- Easy to file
- Any **interested person** can petition
- Protects **vulnerable adults** from **abandonment, abuse, or neglect**
- RCW Ch. 74.34

VAPO: Protection for Whom?

- “Vulnerable Adults” as defined RCW 74.34.020
- Age alone doesn’t make us “vulnerable”
- Inability to care for ourselves makes us “vulnerable”

Who is “Vulnerable?”

- Persons 60+ who cannot care for themselves
- Persons with a developmental disability
- Persons admitted to a facility or receiving home care
- Others defined by RCW 74.34.020

Who is “Vulnerable?”

Almost every person who is alleged to be incapacitated under RCW 11.88 would be considered “vulnerable,” but the older adults generate most of the VAPO filings.

The Aging Population

- The Baby Boomers have arrived. There are now more people aged 65 and up than at any other time in U.S. History.
- The fastest growing segment of U.S. population is age 85 and up.

Source: National Center on Elder Abuse

Aging and Abuse

- The older we are, the more likely we are to be abused or exploited.
- Elder abuse is underreported.
- 90% of offenders are family members.

Sources: National Center on Elder Abuse and
Center of Excellence on Elder Abuse & Neglect

Dementia and Abuse

- Half of the population 85+ has some kind of dementia.
- HALF of people with dementia experience mistreatment.

Sources: National Center on Elder Abuse and
Center of Excellence on Elder Abuse & Neglect

Impacts of Elder Abuse

- Increased hospitalizations
- Increased risk of death
- Increased levels of psychological distress

Source: Center of Excellence on Elder Abuse & Neglect

VAPO: Protection from What?

- Abandonment
- Abuse
- Neglect

VAPO: What is “Abuse?”

- VERY broad definition. RCW 74.34.020.
- Not limited to physical abuse
- “Abuse” includes sexual abuse, mental abuse and exploitation

Physical Abuse: What it looks like.

- Does not have to result in injury
- Can include misuse of medications
- Bruising may, but doesn't necessarily, indicate abuse
- Be especially wary of bruises to face and torso

Source: “Bruising as a marker of physical elder abuse.”

www.ncbi.nlm.nih.gov/pubmed/19558476

What is “Mental Abuse?”

- Coercion
- Harassment
- Isolation
- Ridiculing
- Yelling
- Intimidation

What is “Exploitation?”

- VERY broad definition, includes:
 - Improper use of property or funds
 - Exerting undue influence
 - Misuse of POA or guardianship

Exploitation: What it looks like.

- Changes to estate plan
- Deed of real property
- Changing the bank accounts
- Gifts that are out of usual pattern
- Relatives living rent-free in VA's home
- "Caretakers" who really aren't
- Payee who isn't paying care costs

What is “Neglect?”

- Requires a “duty of care”
- A pattern of conduct or inaction which fails to provide for VA, OR
- A single act or omission that shows a “serious disregard of consequences” so as to “constitute a clear and present danger.”

Neglect: What it looks like.

- Glasses or hearing aids are out-of-date
- Lack of medical or dental care
- Lapse in prescriptions or insurance coverage
- Poor nutrition
- Often hand-in-hand with exploitation
- Falls or bed sores are not necessarily evidence of neglect.

Reporting

- You may be a mandatory reporter
- You can always make a permissive report to APS.

When to file file a VAPO?

- Consider filing when:
 - The VA is *currently* in a dangerous setting.
 - The VA is in a safe setting, but that is threatened (e.g., a family member threatens to remove VA from adult family home).
 - Financial abuse is *currently* occurring (e.g., there are withdrawals or debit card use).

How to file for a VAPO

- (1) The Vulnerable Adult Can file on their own. The court clerk has standard forms, which are also available at www.courts.wa.gov.
- (2) Ask an Elder Law Attorney attorney to assist.
- (3) An Advocate (you) can help a Vulnerable Adult file the petition.

How can a VAPO help?

- Can provide immediate protection
- Can freeze bank accounts
- Can restrain a person from contacting the VA or coming to the facility
- Can prevent a person from removing the VA from his or her facility
- Can be enforced by the police

Other Options

- Seek help from the petitioner, family or caregivers.
- Share your concerns with the bank. Banks can block accounts on their own.
- Make a report to Adult Protective Services and/or law enforcement.
- File for guardianship.

Resources

- Center for Excellence on Elder Abuse & Neglect, UC, Irvine www.centeronelderabuse.org
- National Center on Elder Abuse www.ncea.aoa.gov
- Southwest Washington Elder Abuse Prevention www.sweapcoalition.org

More Resources

- Clark County Prosecuting Attorney's Office
Elder Justice Center
www.clark.wa.gov/pa/elder.html
- Adult Protective Services
<http://www.alsa.dshs.wa.gov/APS/>
- VAPO Court Forms and Instructions
<http://www.courts.wa.gov/forms>

Even More Resources

Any guardian, guardian *ad litem* or elder law attorney practicing in Clark County will happily help you with advice and direction on elder abuse and the VAPO process. This community is great!

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