

Basics of Elder Law & Issues Specific to the LGBT Aging Community-Part 1

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Vanessa Sundin: My name is Vanessa Sundin; I have my own practice here in Chico. I moved here roughly a year and a half ago from the Bay Area. I worked specifically in estate planning, probate, and administration of elder law. I used to work down at a firm down in San Francisco that [inaudible]. We focused on LGBT advocacy. As part of that, I worked for the National Center for Lesbian Rights, which is a large national non-profit organization that's focused on the rights of LGBTQ community. They're the ones that filed the [inaudible] of the marriage case that is now being argued in the Supreme Court related to marriage equality. So I have a basis in LGBT – that my passion, that's basically what keeps me going.

On top of that, definitely elder abuse and that sort of thing. I think elders are individuals that really don't have a voice or their voices are usually, you know, kind of quieted down. I mean, especially as we have the Baby Boomer Generation going forward we're going to have this large amount -- this large population of individuals that the opportunity of elder abuse is just going to be [inaudible], I think.

Anyway so I'm covering the basics of elder abuse. So I'm just basically going to describe what it is and give some examples. And then describe who's responsible for reporting what those liabilities are. If you don't report and you're a mandated reporter, how to go through the reporting process and what options are available to defend against elder abuse. So basically elder abuse is the physical abuse, neglect, financial harm, abandonment, isolation, abduction or other treatment resulting in physical harm, pain, or mental suffering of an elder. It can take a lot of -- a broad different -- a lot of different faces in how it happens. Roughly 90 percent of all elder abuse is committed by family members. But that's not to say that it doesn't happen -- that it's not committed by a lot of other different people. In my practice, personally I've seen care custodians. So any person that's responsible for the care, services, or custody of an elder. Facilities that are managing the care of elders.

And one that I've seen more commonly is it's what I told "a new friend." It especially happens for people that are in long-term care facilities and maybe their family members live far away. And an elder just gets lonely. And so these people come into these facilities or maybe the elder goes out to -- a guy -- I had one client who he would go to this restaurant that was across the street from his care facility and have lunch because he didn't like the cafeteria. And there were three different women, I mean, just in succession with -- that latched on to him. And, you know, would listen to his stories and treated him like, you know, like they cared about him. And then meantime they're sucking hundreds of thousands of dollars out of his bank account. And, well, family members are definitely individuals that also do that. I think that this "new friend" thing is -- especially where there's, you know, there's so many elders and we're so spread out that it's a huge concern. Because people don't necessarily see it because they see it as a person that's being friendly and, you know, helping to take care of the elder keeping them company. Yeah?

Audience member: It seems like if you could talk a little bit in the [Inaudible] Welfare Institutions Code, the concepts of “abandonment” and “isolation

Vanessa Sundin: Sure. If you -- go ahead. Yeah. If you flip over to a couple of pages, I think on three and four, actually I think maybe three and five. So “neglect” is basically the failure to provide services or care that a reasonable person would continue to provide. And that actually is important to note that neglect can be both committed by an abuser, and it also can be as result of the individual him or herself losing capacity and not being able to take care of themselves. And that's where you would start into either pursuing the -- enforcing a durable power of attorney that's been created or pursuing a conservatorship, which is where you have an individual appointed to make the medical and legal and financial decisions for the elder depending on the type of conservatorship you pick up. “Isolation” is where an elder is sort of shoved into a corner. That could be by actual -- like physical imprisonment, like physical restraint. It can be -- let's say we have a caretaker in the home that is answering, sort of acting as a buffer between the family member and the individual. So they'll send one message to the family of, “Oh, he's too tired. He can't talk right now.” And they're never telling that individual that, you know, that their family members are calling them. And that's a situation where you'll end up with -- on top of just emotional and psychological abuse you end up with financial abuse a lot of times. Because you know, they put themselves in this position of, “I'm the only person that cares about you, you know. You should really switch your will over, and give me all of your assets because I'm the one that's here for you.” And then, let's see, you had asked about abandonment.

Audience member: It's clear now [inaudible].

Vanessa Sundin: Okay. Sorry.

Audience member: So it sounds like this might be like what if I'm married and I was 70 or even 60 and my partner is 85, and I decide to leave them so that's not so much abandonment as if maybe I'm was in a care giving type of position.

Vanessa Sundin: Yeah. Abandonment's usually like someone that should -- that's responsible for your care that a reasonable person would continue to maintain your care or would bring in someone else to help you, just bails on you.

Audience member: So like a legal responsibility not like a kid, you know [inaudible].

Vanessa Sundin: Right. Right. It's just a position of care, you know. I mean sure if you're, I mean, if your spouse is responsible for the individual, and he's the only person that knows about it maybe there's some leeway there of an argument for abandonment. But typically it's like, you know, a care custodian that's supposed to be there just doesn't show up, and there's harm that results as a result. And in the handout you'll see that I've got examples of all the different types of abuse and indicators so, you know, I mean. For instance, like physical abuse the things that are -- that's like probably the most simple indicators of, you know, bruising and

scratching that, you know, is reoccurring or in unusual places. Infections, torn clothing, broken bones that sort of thing. Anyway, so every category has kind of the descriptions which I'm happy to go through. But I think in light of the time you guys can kind of look this over. So if you have questions you can always come back to me on it.

But to me the thing that's striking is just the numbers. So it's estimated -- and this stat is a couple years old. But 1 in every 9 Americans over the age of 60 is a victim of elder abuse. That means there are 5 million individuals -- elder cases that are reported every year. And the thing that makes it even more staggering than that is that this is only the cases that are being reported. A lot of elder abuse goes unreported all the time. And it's often because either the elder is afraid of reporting because of what their abusers might do. Or they're so isolated that, you know, they don't have anyone to reach out to. Or they might have capacity issues where they don't really understand what's going on or have the ability to communicate what's going to someone else.

And the other thing that I didn't think about this before practicing but I see it most commonly is that a lot of elders don't want to admit they're being abused. And this is especially in financial abuse situations where, you know, they're still with it enough to understand that, you know, they were taken for a ride. But they're really embarrassed about that that happened. And so they just let it go. You know, I've had situations where elders have given away thousands and thousands of dollars to a business or to a person or, you know. Just somehow, you know, assets to somebody, and then the family members find out a while later. And then we do something maybe about it at that point if we can. But that's -- I think that's just staggering. Typically women and the very old are the most common victims or the most likely victims. But that's not to say that every elder isn't, you know, potentially subject to elder abuse. Another particular demographic is individuals that are more isolated, where their family members aren't really close by. Maybe they still live at home, and they're just working with a caregiver. Let's see. Have I covered most of that? I think so. Sorry I'm just adjusting [laughter]. So it's going to be a little bit chaotic. Yeah?

Audience member: [inaudible comment].

Vanessa Sundin: I'm sorry?

Audience member: How prevalent is sexual abuse?

Vanessa Sundin: I don't have any stats on that. But it's definitely a real concern, particularly with elders that have capacity issues or perhaps aren't as, you know, don't have as much mobility anymore. You know especially people with Alzheimer's or dementia or something that aren't going to remember what's going on with them or how they're being treated. So in that instance, you know, it's good to look for infections that are in the genital area or bruising, you know, in any place that's like private. You know, like you talk about when you're younger those are some of the primary indicators. Or if there's like all of sudden like pretty excessive fear. You know, sometimes because sometimes people with capacity issues can't vocalize

what's going on with them. But once you, like, try to get into their space, you know, there's clear indicators there's something wrong. You know, and it might be like focused on one person, or it might just be generally that they're not wanting to be touched by someone.

Audience member: [inaudible] ...it's part of that definition, the physical abuse.

Vanessa Sundin: Yeah. Physical abuse if you look at that's the basic terms. And then if you go into the code sections you will see that there's a pretty extensive list. And it -- let me see what the -- I've referenced the code section in here. Let me see if I can come back to it. I'm sorry I don't know this off the top of my head. But there's so many code sections that -- yeah. Welfare and Institution's code, Section 15610.63, provides a pretty exhaustive list. It's not necessarily the only examples, but it's a pretty detailed example of what qualifies as physical abuse. And, you know, and the thing to think about with physical abuse is that it's not just like hitting someone or scratching them or breaking bones in some way that leaves like big marks. It can be like, you know, slapping the hands of a resident who, you know, is not necessarily doing what you want them to do. Or being more physical than necessary to get them out of the bed. Or anything that's a bad touch. Anything that's an unwelcome touch really is physical abuse. So it doesn't necessarily have to be, you know, punching someone in the face. Or you know, leaving -- gripping them so hard that you're leaving fingerprints that sort of thing. It's harder to see like the other types of physical abuse, but they're definitely concerns.

So one of the major areas of abuse, I think, is financial abuse. It makes up 21 percent of the allegations that are reported to the APS. It's also the third-most substantiated form, second to neglect and emotional-psychological harm. And essentially financial abuse is just that -- any version of taking the assets, whether the elder gives it to you the individual willfully. Or if they don't understand what's going on or they don't even know that it's gone. Or if they understand that it's being taken, but they can't stop the individual. Any of those alternatives whether it's the individual actually acting or someone that's supporting in that action.

For instance, I've had a client that was a grandmother, and her granddaughter came to her with a story about I want to go back to college. I want to get a degree. You know, will you support me in this because I can't get the funding to be able to do it. And so over the course of roughly, like, five years, grandmother taking, you know, relying that her granddaughter's being honest with her gave her roughly \$300,000. Between giving her money and then also accepting loan liability, which the granddaughter had absolutely no intent on paying and didn't use for tuition necessarily. And then on top of that we had a boyfriend that was also in the picture who was eating, you know, facilitating that process of, you know, encouraging the grandmother to give the funds and trying to present this story. And so both of those individuals -- even though all the checks only went out in to the name of the granddaughter, both of those people are liable for financial abuse because they're both participating in those actions.

And so the standards are -- you have to show that there's actual cause of connection that these people were doing these things. But it doesn't matter that the elder was participating in

this if they don't understand -- if they're being manipulated. Because we -- there's statutes there because we as a society want to protect these elders. And we realize that after you have hit, you know, you're in your 60s, you might still have the ability to make decisions but you're not necessarily making the best decisions for yourself. And you might be vulnerable to these individuals. So it doesn't matter if you're being quote, unquote, conned or and you're giving these things that you think is a good idea. Or if it's really you being, you know, your funds being stolen without your knowledge or consent.

Audience member: What about companies that take advantage --

Vanessa Sundin: Absolutely.

Audience member: I had a client that just recently moved. I found out that the life insurance company had sold her eight separate life insurance policies. And they continued [inaudible]. Her response was, "Well, they told me I would need it."

Vanessa Sundin: Right.

Audience member: But, I mean, to report a company for questionable practices what would probably be the best? The Better Business Bureau, or do you --?

Vanessa Sundin: Well, you want to contact one of the agencies that are setup for dealing with elder abuse. I have them listed on the last page. The primaries of those being Adult Protective Services, because they're one of the major companies. There's also an [inaudible]. I can never say that word for the life of me. That you know are clearly established for the purpose of protecting elders that are being victimized. Sure you can also contact the Better Business Bureau. You can also contact the police. You can contact an attorney and see what legal rights are there. Because the important thing with this is that there are many, many opportunities to defend against elder abuse. But they all have statutes of limitations, particularly in the civil rights realm of the civil rights, you know -- civil suit realm. And, you know, it is really common for financial institutions to come in. And life insurance policies are a big one. Another one is an annuity. And there's a lot of protections that are written into the statutes now that allow rescinding of contracts for these specific types of investments. Because it is so common that these people try to come in because it's an easy sell. So any elder abuse charge can be made against an institution just as well as an individual.

J. Scott Corporon (Attorney at Law, Panelist): We had a situation with a man in his 80s, physically very active but mentally off. He was taking \$20 and putting them in envelopes and sending them off to this pyramid scheme. And he did it until he ran out of money. But then he went to the bank, and they did a home equity line for him. And he racked up to -- it was close to \$130,000. And some of the money was used for, you know, groceries and whatever. But in a short time \$130,000. And he wasn't living lavishly. Every day he would stuff these envelopes with \$20 bills and send them off to who knows where. But the family did go back to the bank and say, hey, what, you know, this isn't [inaudible] lending. This guy clearly doesn't have the

capacity to understand what he's doing. And they did back off. They probably didn't want the publicity or [inaudible]. Not every institution would do the same but [inaudible].

Vanessa Sundin: Another issue is reverse mortgage. Reverse mortgage is easy. They were being pressed really hard. They're not as much I think as they were a few years ago. A reverse mortgage is where -- let's say an elder doesn't have a lot of just cash in a bank account, but they have maybe \$400,000, \$500,000 worth of equity in their home. You go away and you borrow against the value of the equity that you have in the house. So you can either get a lump sum payment or you can get monthly payments out. And so with every payment that you get you're reducing your equity in the home. And elders are told that they need this money. Or that it's, you know, it's a smart financial decision to make to do these sort of things. [inaudible comment] yeah. [inaudible comment] Yeah. They're generally a terrible idea. I mean there's very specific circumstances in which a reverse mortgage does make sense. But in most cases -- I mean, let's say an elder does have, you know, a large amount of equity in their home and they need to go into a long-term care facility. I mean, sometimes selling that house and using those funds. Unless you've taken arrangements to create some sort of irrevocable trust or that person's going to be eligible for benefits. They might need that capital to get them into a house. You know, or into a care facility in order to get the services that they need. So I mean that equity even though they might just be sitting on it sometimes it becomes a really huge -- I mean just like with anything, I guess. Money's always a good thing to have, you know. But in particular the elders where there's unanticipated costs or sometimes anticipated costs but unavoidable costs.

J. Scott Corporon: I just read an article about reverse mortgages. And one of the problems that was coming up is folks were relying on this income even to pay the property tax and insurance. They got to the point where they exhausted all the equity. And they no longer had the income to pay for the property tax and insurance. So they would lose their house because of the failure to comply with the terms of the reverse mortgage which was to keep it insured, keep your property taxes current. So late in the game, in their 80s, they're finding themselves put out of their house because they can't pay their taxes and insurance.

Vanessa Sundin: Right. You
Have a question?

Audience member: I have a question about if someone wasn't in a reverse mortgage situation, just a regular mortgage situation [inaudible]. So an older adult has -- the house isn't worth what they owe. In terms of just walking away from it, is there any special precautions you would recommend? They can't afford to stay in the house. They can't afford the mortgage. They can't sell it for what they owe.

Vanessa Sundin: Right. I mean if you end up in a situation where the elder doesn't have the means to be able to continue to maintain their home -- I mean, it might be a situation where maybe it's time, depending on the other physical, you know, the physical health of the elder, then maybe you consider some sort of care opportunity. And maybe if you're at that point

where you don't have any equity in your house you might be eligible for government benefits that might facilitate that person staying in a care facility. It's a really terrible situation. I mean, a lot of Americans are in that situation, not just elders. But certainly it might end up meaning them moving in with their family. Or if they do have some sort of, you know, social security benefits or pensions, that sort of thing, that can help them rent something at that point. But it's generally just sort of the same standard response you would have for any individual as far as --

J. Scott Corporon: You know I think [inaudible] sometimes I would get these people that had a lot of credit card debt. And they were so worried about making the payments. You have this old school mentality -- I owe the money. I know of another family situation where a gentleman is way overextended on his house. His mortgage payments that are far exceeding his monthly income but can't let go -- this, you know, ingrained, "It's my debt. I can't walk away from it." On paper, objectively, it makes sense. You know, you're in your 80s, and you only get, you know, \$900 a month in social security. Why are you paying a \$1200 house payment, you know? Get a \$500 studio apartment.

Vanessa Sundin: But sometimes there's opportunities for loan modifications for hardships; that sort of thing where they'll extend out your mortgage and give you -- reduce your monthly payment amount. Sometimes it depends on the type of loan that you get. But sometimes they'll even reduce the principal of the value of your loan. There's another thing that you mentioned that made something come into my mind. Oh, VA benefits. Also, if an individual is a veteran, the VA office is -- if they've obtained the mortgage through the VA, like with the VA's -- if it's a VA loan, the VA will actually intercede for the veteran a lot of the times. And enter for additional opportunities that are not available to like a standard borrower. They just try to do whatever they can to help make the adjustments to the loan to keep the person in the home. Yeah.

And another important point about financial institutions in -- they are technically a mandated reporter. If they see things that are going on with the account that don't look correctly, and if it's, like, directly observing someone coming into the bank with an elder and it's clear that there's some sort of mischief going on. Or if they look at the accounts and there's really strange activity. Or if they're told by another person in the bank or the lending institution that they're may be some sort of abuse going on. They're required to report that immediately or soon as they're able to. And if they don't then there's several penalties there that they will have to pay. No. It's fine [silence].

So moving forward... if you are -- certain people are mandated to report elder abuse. Basically that just is any person that has the full-time, part-time or intermittent care or services for an elder. They're responsible between a window of, basically, immediately -- two days -- to provide a report to specific institutions of any sort of abuse that they've become aware of. And becoming aware of it, again, is the same sort of thing with the financial institutions. It's either you've seen something, you've been told about something. Or there's just some evidence that's kind of around that is suggesting that there's some sort of physical abuse,

sexual abuse, neglect -- you know, that sort of thing. Then you're required. And if you don't there are actual criminal penalties and possible imprisonment if you fail to satisfy your duties. On top of that, if you're not a mandated reporter, of course, you are more than encouraged to report it. But there's no liability for you if you actually don't go ahead and report it. And the institutions that you want to go and report to are, A, like your, you know, your law enforcement. Especially if it's a situation where the abuse is happening is physical abuse or financial abuse where there's theft involved. Adult Protect Services -- do you guys know what Adult Protect Services is? I kind of assumed given the nature of the people that are here. There's also the long-term care. I'm going to have you say it again because [inaudible comment]. Thank you. It's sort of like saying spaghetti when you're a kid. I just never have ever been able to do it. Department of Health Services or the California Attorney General Bureau of Medi-Cal Fraud and Elder Abuse. And I have links to their websites and their contact numbers for each of those. I assume if you're working in some sort of institution that there's probably some sort of internal policy that's available to help in the reporting process, but in case you want it that information's here.

And so with elder abuse there are certainly civil liabilities, which I'll get into for a second. But there are also criminal liabilities for abusers in some instances. And typically that relates to physical abuse that's causing serious bodily harm, financial abuse, and false imprisonment. In addition to that, there's also, you know, the standards that you can get of, you know, assault. And those are the things that available just under the general law. But if there's elders involved there are additional ramifications criminally.

So if you're aware of elder abuse that's going there's many different avenues that you can take. Again, contacting the police, contacting Adult Protect Services. If the elder's in a home with a care custodian, maybe moving them out of that home or getting rid of the care custodian is what makes sense immediately, or switching the elder to another home. You can also obtain a stay away order. They're similar to a restraining order, but they're something that you petition through probate court, which is the court that addresses all elders, dependent adults, and estates. Those could be obtained through an emergency order. They can also get more permanent orders in place.

You can -- let's see. Also, like you were talking about earlier in preparing a estate planning documents. If an individual -- if it looks like they're starting to get to the point where maybe they're being manipulated, but they still have capacity or something. Creating a will or reviewing the will and making sure that -- or the trust and making sure they haven't been changed in a way that the elders -- it's in the elders best interest or really what the elder intends to happen with his or her estate. Or it might be taking it to the next level of, you know, dad has a durable power of attorney and advance health care directive executed. Maybe it's time to actually really effectuate those. Go take him into his, you know, doctor's office or get a report done that establishes that he no longer has capacity. And then we can start making those decisions on his behalf. That's a really quick way when there's someone that's in the picture that's especially a financial abuse to cut that off really quickly.

If there are no estate planning documents in place, then again, you'll have to go through the conservatorship process within the probate court. Because if dad doesn't have capacity, dad can't indicate that you're going to be the person that's taking care of him anymore. Another one which is file civil cases. That's usually for the standard of damages that the elder has incurred as a result of the abuse that has happened. But also you can get attorney's fees and punitive damages, which is essentially a court's additional slap on the hand. It's more than a slap on the hand. But, you know, additional punishment for individuals for the really poor behavior that they've had.

An important thing to note on this too, which is I have seen it work both ways. It's a really interesting rule in that any person that's alleged of elder abuse if they defeat the claim and show that they're not abusing the elder, they can't go in and get attorney's fees against the person that is alleged of harm. The thing that's interesting about it is that I've had several cases where the abuser is the one that files the civil action for abuse against the person trying to protect the parent. And so not only does this person have to go in and defend their own name and make sure that this person is not being abused and protect them from the situation. But there's really no, you know, immediate action that they can take to have some sort of retribution against the person that's really acting poorly. They can go in and once they've won the case go in and do a new case, basically telling the court that this individual that had made the allegations was abusing the system. And that this person should be forced to pay for the damages incurred. But it's interesting because it's a really important thing to encourage elders to report, or people to report on behalf of elders potential abuse. But in the situation where there's no abuse going on it's really kind of crappy.

Audience member: Can you tell a little bit about mandated reporting and what the limitations of that might be. So I'm a social worker. And if I'm in a grocery store and not working.. I'm a mandated reporter. And then I guess I think about the incident that happened. I forget where in Southern California where, you know, a person was in assisted living, the nurse called 911 but refused to give CPR. It was in the news about a month ago. So just what are our obligations in the community to protect and mandated reporting?

Vanessa Sundin: If you are a care provider or you're involved, I mean -- care provider within a facility can extend to support staff and even maintenance staff. It definitely pertains to while you are in your working environment. That any abuse that you see -- I'm actually less clear on whether you're -- if you're outside of your purview of your profession if you see abuse of whether or not you're supposed report it. [To J. Scott Corporon] Do you have any knowledge on that?

J. Scott Corporon: [inaudible comment]

Vanessa Sundin: Are you mandated?

J. Scott Corporon: [inaudible comment]

Vanessa Sundin: You're not. Okay.

Audience member: [inaudible comment].

Vanessa Sundin: Okay. Yeah. So it's the Good Samaritan rule. Right.

Audience member: Ethically maybe but not [inaudible].

Vanessa Sundin: Right. And again, I mean that requirement or report goes from a two-day requirement if it's, you know, there's definitely abuse. But it's, you know, not that bad. But if there's definite physical harm, you know, it can go to immediately. I'm sorry. There was another aspect to your question.

Audience member: [Inaudible]...I guess, never mind. That's an abuse thing that's not a mandated report thing.

Vanessa Sundin: It does bring up an issue, though -- that it's not abuse if an individual does have -- like an elder has a spiritual belief system that prevents any sort of medicinal or, you know, sort of intervention. That's different. But then on top of that there are certain situations where medical stuff is not required to report. And that's in the situation where they're told by the elder that they're being abused. And they don't have any sort of corroborating evidence that there's some sort of abuse going on. And the elder has medical capacity issues, whether they've been conserved or if they have Alzheimer's, dementia, that sort of thing. Then you're not required to report it at that point because there's not enough there to really go forward. I mean certainly if you're working in an institution I would -- the institution I would assume would do a fairly decent, you know, investigation into it. But they're not required to report it at that time.

Audience member: So in that case if you do report can you get sued? [inaudible].

Vanessa Sundin: There's no, I mean, unless it's like a clear abuse of process and maybe there's a tort claim there, depending on what's going on. But you're never in trouble for reporting a situation that turns out to be false.

Tom Kellem (panelist): Two things. What's the age of "elder," in terms of reporting?

Vanessa Sundin: It's 65.

Tom Kellem: Sixty-five. Okay.

Vanessa Sundin: Yeah.

Tom Kellem: And I know it's the case with child abuse that CPS is very open to people calling and asking questions. You know, " I'm working in this facility this and this is happening. Do I

need to report that? What's your take on it? What would happen?" And usually, you know, they'll give you a lot of information I assume.

Vanessa Sundin: APS is the same way.

Tom Kellem: APS is the same way.

Vanessa Sundin: Yeah. I mean, there might be issues of them being willing to communicate with individuals that are not legal representatives for the elder. But if it's like you're calling in of like, you know, I have questions about this issue, you know, they'll talk to you. But if it's like an actual case file --

Tom Kellem: Yeah. If it's a case they will.

Vanessa Sundin: [inaudible] it's private information.

Tom Kellem: But if you have a question, you know, this is happening in my work environment do I need to report it how quickly? What's the best procedure?

Vanessa Sundin: Yeah.

Tom Kellem: And I mean, I know a lot of times with CPS they'll say, you know, you can report it, but there's nothing we're going to be able to do based on the information that you're giving us or the kind of case it is.

Audience member: I wonder if you could do like an anonymous report? At the hospital we have complaint forms [inaudible]. Maybe the abuse isn't happening now. Maybe the abuse might have happened years ago. You know, I'm sure [inaudible]. So maybe it's not happening now but maybe in the past but still those things need [inaudible]. How do they get help, you know?

Vanessa Sundin: I mean, you can report it. In terms of civil cases there's a statute of limitations as to when you can bring suit. And that can be anywhere from like a year to four years, either from the instant or when the incidents have been discovered. It really is dependent upon the nature of abuse that's happened. It depends on a lot of different factors.

Audience member: [Inaudible]

Vanessa Sundin: I can't speak to like the internal policies of a care institution as to what they would do. But in terms of what the legal rights are for the elder, I mean, that would be dependent upon how much time has passed and when the incidences were discovered. And what the incidences actually were, excuse me [silence]. Yeah. [inaudible comment] sure.

Audience member: The definition of “dependent adult,” whether child abuse, older adult abuse, elder abuse, and dependent adult abuse -- what is the definition of a “dependent adult”?

Vanessa Sundin: Roughly it's any person that is, I think it's over the age of 18. I don't know that it's -- yeah, it's over the age of 18, but under the age of an elder who doesn't have capacity to make decisions for themselves or, you know. I mean, in the Welfare and Institution's Code there's, you know, a clear definition that you can look up. I didn't actually include it because -- oh, another thing too all of these descriptions of abuse and whatnot, I just deleted dependent adult out of it because it was sort of out of the purview of our conversation today. But these all apply the same to a dependent adult.

Audience member: What do you look for in elder abuse [inaudible] ...a home care facility or hospital?

Vanessa Sundin: Tom's going to talk about that. Do you want to --

Tom Kellem: [inaudible] I think that's pretty specific.

Vanessa Sundin: Okay. Well, I mean, the thing about -- I feel like it's a broader topic because in the LGBTQ community a lot of individuals that have been out, you know, their whole lives have partners that sort of thing. If they're actually going into a home they sometimes will going back into the closet and not be, you know, open about what their orientation or identity is because of either perceived or real discrimination. The important thing is to have -- for the facility to have trainings for sensitivity. I think that a lot of the same sort of responses from LGBTQ elders will be similar to just, you know, another elder in the same situation of where they're going to shut down. At least if this is like sort of social and emotional -- like social discrimination like an emotional abuse scenario. You know, they may not be willing or they might have pretty significant reactions to individuals that are discriminating against them or abusing them. Or they may just shut down generally, being in the facility. So again, the most important thing is for these facilities to have trainings -- and so that their sensitivity relating to LGBTQ community and understanding what that means. And, I mean, there's a lot of best practices that are out there. It's like having opportunities within the organization. Again, I'm stepping on your toes. So I think that I should not...

Tom Kellem: [inaudible] with specific thing that's going on is. There's definitely, I mean, part of what I was going to talk about is what it's like to be older and being in a facility. And that that's a whole lot different than sort of where we are socially generally these days. And I can see instances where someone in a caregiving situation might not like that somebody's LGBTQ or not honor their relationships. Or do things that are harmful to them because of their own prejudice against them. I'm not sure what specifically -- like the institution itself might do other than that that would affect it. Should I start talking?

Vanessa Sundin: Yeah. Why don't we do that? [laughter] [applause].

