

**EDUCATION AND OUTREACH
TO ANTICIPATE CAREGIVER
LEGAL OBSTACLES IN
IMMIGRANT COMMUNITIES**

Erin L. Riker

**Center for Elder Law and Justice
Buffalo, New York**



Agenda

1. Background
2. Family Caregiving in Immigrant Communities
3. Cultural Sensitivity in Outreach and Education
4. Legal Tools that Lighten the Load
5. Caregivers and Capacity
6. Breakout Session
7. Questions



Background

- CELJ – Refugee and New Americans Unit
 - USCIS-related services
 - Other legal needs
- Substituted Decision Making for Immigrant Seniors
 - Identified through relationship with community partner
 - Popular among seniors and caregivers



Background

- Terminology
 - Immigrant
 - Refugee
 - Asylee
 - Family-based petitions
 - Crime victims and cooperating witnesses
 - VAWA petitions
 - Other special visa programs
 - TPS
 - PRUCOLS
 - DACA
 - Permanent Residency vs. Citizenship
 - LEP
 - Interpreter vs. Translator
 - Language Access
 - USCIS vs. ICE



Background

- **Priority Resettlement Cities**
 - Communities in the US where UNHCR and USCIS resettle large numbers of immigrants
 - Low cost of living
 - Availability of housing
 - Declining populations
 - Pre-existing immigrant communities and services for immigrants
- **Benefits**
 - Allows refugees to feel comfortable and familiar while adjusting to new home country
 - Allows for centralized provision of services
 - Stems population decline
 - Economic benefits and small-business development
 - Lower crime rates



Background

- Similarities between refugee and other immigrant communities
 - Resettlement often grouped by country of origin, common language, other common characteristics
 - Non-refugee immigrants often also self-sort into communities based on country of origin, common language, common culture
 - Multi-generational family units common among both populations
 - Family based petitions and family unification
- Unique needs of refugee communities
 - Resettlement under stressful, involuntary circumstances
 - Loss of possessions
 - Integration and understanding of new cultural and legal norms
 - Affect of trauma on seniors and caregivers
 - Resettlement agencies assist with some of these needs but do not provide lifelong care for refugees



Family Caregiving in Immigrant Communities

- Cultural
 - Tradition of multi-generational households
 - Aversion to “sending away” older family members
- Necessity
 - Lack of caregivers with language skills, knowledge of cultural norms
 - Traumatic experiences hinder trust
 - Adjustment to new social norms
 - Life in refugee camps
 - Flight from war, torture, discrimination
 - Lack of familiarity with outside caregiving resources



Family Caregiving

- Immigrant Caregiver Experience
 - Layers of responsibility typically associated with family caregiving
 - May be caring for older family members while also raising own family
 - Balancing caregiving while working outside the home or pursuing education
 - “Bridge” between caregivers and new home country
 - Older and homebound family members don’t interact as much with new culture
 - Caregiver must learn new norms and adjust to new country while also teaching family members about it
 - Caregiving for immigrants involves traditional care work and extra burden of helping family navigate new home country
 - Caregiver may have little to no time to adjust to new country or learn new norms before being expected to guide family members through them



Cultural Sensitivity in Outreach and Education

- Meet them where they are
 - Many ethnic immigrant communities are still insular
 - Your audience for outreach events will often be caregivers rather than seniors
- Partnerships with community organizations
 - Language clubs
 - Churches
 - Community medical centers
 - Other immigrant outreach organizations



Cultural Sensitivity in Outreach and Education

- Imperative to building trust with caregivers
 - Although legal tools are for seniors, first outreach/education will often be to caregivers
- Learn as much as possible
 - No single “immigrant experience”
 - Not all immigrants are refugees
 - Refugee populations differ widely between countries of origin, ethnic groups



Cultural Sensitivity in Outreach and Education

- Using Interpreters
 - Interpreting is more than just being bilingual
 - Interpreter etiquette
 - Remember who you are speaking to
- Avoid using caregivers as interpreters
 - Interpretation is pervasive caregiver burden in immigrant communities
 - Puts caregivers in awkward positions
 - Message may not always come through accurately



Cultural Sensitivity in Outreach and Education

- Avoid “White Savior Syndrome”
 - Recognize incredible efforts and talents of caregivers
 - Give options, not orders
 - Respect decisions of caregivers and seniors
 - Recognize that they have the right to decline



Legal Tools that Lighten the Load

- Seniors are the clients, but caregivers are also beneficiaries
 - As client, the senior has the final say regarding what legal tools they want to have
 - If senior does not wish to obtain legal tools, there are other ways to assist caregivers
- Identify issues and obstacles faced by caregivers
 - Caregiver may have potential for future obstacles that he/she is unaware of
- Complex legal structure can hinder caregiving
 - Privacy and consent laws designed to protect seniors
 - Unintended consequence is difficulty of performing tasks on behalf of another



Legal Tools that Lighten the Load

- Additional barriers for immigrant caregiving population
 - Unfamiliarity with legal and social norms
 - Lack of access to attorneys
 - Insulted by suggestion that senior may need “protection” from family caregivers
- Substituted decision making tools
 - Allow a caregiver to act in the place of another
 - In place only while person needing care is alive
 - Difference between substituted decision making and estate planning
 - Decisions regarding medical treatment
 - Decisions regarding property, finances



Legal Tools that Lighten the Load

- Power of Attorney
 - Durable vs. Springing
 - Selection of Agents
 - Gender/family status preferences
 - Grant of Authority
- Healthcare Proxy
 - Selection of Agents
 - Inability to communicate wishes
 - Living will component
 - Artificial nutrition/hydration
 - Organ donation



Caregivers and Capacity

- All legal tools require that the senior have capacity
 - Capacity = understanding of tool and consent to create it
 - Capacity needed for some decisions is higher than capacity needed for others
- Recognize caregiver's stake in this assessment
- Caregivers may try to influence process
 - Intention may be benevolent, but undue influence causes more problems than it solves
- Caregivers may also provide valuable assistance
 - Certain times of day may be associated with more lucid periods
 - Certain medical/psychological conditions may make evaluation of capacity difficult



Caregivers and Capacity

- What can we do to balance ethical obligations with needs of caregivers?
 - Empathy for caregiver's experience
 - Use certified interpreters
 - Variety of options, including “backup plans” if capacity is not present
 - Representative payees for benefits
 - Education regarding mandatory language access programs
 - “backstop” laws regarding medical decision-making
 - Automatic payments, direct deposits, “monitor-only” account access
 - Supported Decision Making skills for caregivers



Caregivers and Capacity

- Supported Decision Making skills for caregivers
 - When capacity cannot be assessed or is not sufficient for a specific legal tool
 - When senior needs a level of care that caregiver cannot provide, but is unwilling to cooperate with arrangements for that care
 - Breaks large and complicated situation down to smaller parts
 - Allows caregiver to get at the heart of what senior wants and needs
 - Allows caregiver and senior to find solution together
 - Avoids caregiver making decision that they may not have the legal authority to make, or may feel uncomfortable making



Breakout Session

- One fact pattern per group
- Each group should choose a speaker to give results to the audience
- Each group should answer the following questions:
 - What issues/obstacles is this caregiver facing?
 - What legal tools would best assist this caregiver?
 - What legal tools are not available or appropriate in this situation?
 - What alternatives to legal tools can you give this caregiver, if any?
 - Does your case have any special circumstances to keep in mind?



Questions



