



What We Learned From . . . New Hampshire

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From the [Land of Lincoln](#), we went east to the Granite State. We met with Attorney General John Formella and Brandon Garod, Senior Assistant Attorney General, to learn about the New Hampshire Office of the Attorney General and the state's priority of protecting seniors.

Background of the Office

The New Hampshire Attorney General (AG) is appointed by the governor and confirmed by the executive council. The AG oversees [the Consumer Protection & Antitrust Bureau](#) (the Bureau) which falls under the state's Department of Justice.

Similar to what we've heard from other states, AG Formella explained that the Bureau sets its priorities based on "the needs of the state and what the state is experiencing." The Bureau learns about these needs from a variety of sources including consumer complaints.

Additionally, New Hampshire has participated in many multistate investigations. AG Formella described multistate investigations as an "opportunity to pool resources to pursue an issue that is important not only to New Hampshire, but to the country."

Though the Bureau does not offer a formal resolution process, the Bureau reviews the complaints and sends them to the business in order to elicit a response and a potential resolution. Garod added that if a business response does not fully address the complaint, then sometimes the Bureau will use the complaint as an opportunity to push back on a business and drill down on any potential UDAP (unfair and deceptive acts and practices) violations. Garod highlighted that the Bureau has been able to recover money for consumers and achieve results through this informal resolution process.

The Consumer Protection Act

The Bureau primarily relies on the Regulation of Business Practices for Consumer Protection ("[Consumer Protection Act](#)"). The Act provides several per se violations like "advertising goods with intent not to sell them as advertised" or using "deceptive representations of geographic origin in connection with goods or services." According to Garod, the Bureau has both criminal and civil authority, which are both used frequently.

Under New Hampshire statutes, the AG and the Bureau are authorized to conduct pre-suit investigations and can conduct depositions and request documents. While the AG and the Bureau cannot issue interrogatories, they can compel the appearance of a person to the office, put them

under oath, and ask questions (similar to a deposition). Garod discussed that the Consumer Protection Act itself does not provide a statute of limitations; however, there is a statute of limitations of three years for all civil actions brought by the state.

The Consumer Protection Act can carry a hefty civil penalty of up to \$10,000 per violation. Though the AG does not have the authority to obtain disgorgement, they can and often recover restitution as well as the costs of bringing the lawsuit. Garod noted that the office prioritizes obtaining restitution for its consumers as well as injunctive relief.

The Bureau can enter into an Assurance of Discontinuance (AOD) to settle claims; however, any violation of this AOD can be prima facie evidence of a UDAP violation.

Outside of the Consumer Protection Act, New Hampshire does not have specific laws to address price gouging, auto-renewals, or privacy rights (yet). Garod stated that many actions that would fall under those specific types of laws could be an unfair or deceptive act or practice under the Consumer Protection Act.

Prioritizing Seniors

AG Formella stressed that the state is prioritizing protecting seniors and combatting financial exploitation. He noted that New Hampshire is an “aging state” with the population of its citizens over 65 increasing – a common trend with other states.

The AG and the Bureau focus on seniors through the following three methods:

- **Education and outreach:** Garod stated that the best way to combat illegal activity is to empower people to protect themselves through education. The Bureau has made efforts of educating financial institutions, medical providers, and other stakeholders in order to impact a diverse body of stakeholders throughout the state.
- **Investigations and Prosecution:** The Bureau has revitalized its [Elder Abuse and Exploitation Unit](#) with more resources and staff.
- **Legislative Tools:** [RSA 631:9](#) criminalizes the financial exploitation of an elderly adult. The statute also empowers financial institutions to combat elder fraud and provides an extended term of imprisonment for intentionally taking advantage of a victim’s age or physical/mental disability.

The Bureau has already seen success with its education efforts, investigations, and enforcement of criminal laws against targeting seniors. Garod mentioned that the Bureau has won multiple jury trials prosecuting bad actors targeting vulnerable senior citizens.

Takeaways: States like New Hampshire are closely paying attention to consumer complaints, state trends, and nationwide concerns in determining their enforcement priorities. AG Formella’s focus on seniors is a reminder that states have special statutes and enhanced penalties that may apply where the victims are from vulnerable populations. It is crucial to have a deep understanding of each state’s laws and priorities when choosing where and how to operate your business to ensure robust compliance.

Be sure to join us on December 14 for a **Conversation with NAAG and AGA Executive Directors**. To register for the webinar, click [here](#). To catch up and read the coverage of all our previous state

AG webinars, click [here](#).