Multi-Disciplinary Care of the Trafficked Person

Trafficking In Persons Taskforce

2016
Learning Objectives (1)

• Identify the key personnel with whom healthcare professionals (HCP) will interface in the process of care for a TIP victim - including law enforcement.

• Develop an approach to referral services and the short- and long-term needs of trafficked victims.
Learning Objectives (2)

• List the key forms of immigration relief available to victims, including T and U visas.

• Apply key lessons as an expert witness (as a healthcare professional) and how to use affidavits.
Your Team

• You will have to work with many different professionals when working with trafficking victims.

• Although you are not expected to perform their functions, you need to understand how your role can complement theirs.
Your Team

• People on your team include:
  – Social workers and case workers
  – Forensics specialists and crime lab
  – Law enforcement and security agents
  – Attorneys
  – Immigration specialists
  – Mental health counselors
  – After-care staff
  – Clergy
  – Certified translators
Working with Other Agencies

• You do not need to understand the fine details of the laws about TIP victims, but it is helpful to know of the agencies, services and benefits that may be available.
Case Management

“Victims need to be assigned a case manager from point of identification throughout the criminal justice process. This person does not need to be a Victim Witness Coordinator from law enforcement but the person needs to be consistent.”

- A law enforcement officer
GETTING STARTED
Preparedness

Before the first TIP suspect or victim comes into your clinic, be prepared with referral information and contact details for trusted support persons who can provide a broad range of assistance.
Making a Safe Referral

• A safe referral is not just transferring a person, but a smooth transition that is an integral part of their care.

• Safe means that it does not jeopardize the health and safety of the person nor break the chain of care.

• You need to know BEFORE that patient encounter where to refer!
Key Principles of Safe Referrals

- Keep in mind that the needs of TIP victims go beyond medical needs.
- Good referrals preserve the chain of care; poor ones place the patient (and you) at risk.
- Provide transport services to accompany patients for referrals.
Map Out Your Potential Partners
Community Referrals

- Know your local resources
- Make a list of name and phone numbers to call
  - Shelters and safe houses
  - Hotlines
  - Local clergy and other organizations
Whom Do I Choose?

- Whenever possible, counter-trafficking specialists are the preferred contact.
- When no formal counter-trafficking services are available, suitable groups may be those experienced in responding to violence or torture or those assisting marginalized groups such as migrants, homeless and refugees.
Resource Lists and Contact Information (1)

- **Phone hotlines**
  - Counter-trafficking
  - Family violence
  - Child services
  - Suicide
  - Missing persons

- **Shelter and housing services**
  - Counter-trafficking
  - Domestic violence
  - Children and teen
  - Migrant and refugee
  - Homeless
  - Faith-based and community-based organizations

- **Health services**
  - Sexual health
  - Reproductive services
  - Alcohol or drug clinics
  - Child advocacy center
  - Mobile clinics; outreach clinics
  - Free health services

- **Mental health and counseling**
  - Psychologists or therapists
  - Specialists in violence-related counseling
  - Psychiatric clinics
Resource Lists and Contact Information (2)

- **Non-government and community organizations**
  - Refugee or migrant
  - Social support
  - Faith-based
  - Human rights
  - Labor rights organizations
- **Legal services**
  - Independent lawyers (immigration and criminal)
  - Community Legal aid services
- **Embassy/consular offices**
- **Certified translators and interpreters**
- **Police and law enforcement services (first through C-TIP organizations)**
  - Local police contacts
  - Sexual and domestic violence focal point
  - Children’s focal point
- **Local government contacts**
  - Anti-trafficking center
  - Children’s offices or services
  - Women’s offices or services
  - Immigration services
  - Housing and social services
- **Embassy /consular offices**
Sample Service Matrix

- The following sample service matrix sheet can serve as a guide for your office or clinic setting.
- Do the research now to fill in the information.
- Post it in clinic rooms, distribute to staff.
- Develop relationships with those listed. Keep the information updated, as names and numbers will change. You don’t want to discover outdated information the night you need it urgently.
<table>
<thead>
<tr>
<th>Service Category</th>
<th>Provider</th>
<th>Contact Person</th>
<th>Contact Person Phone</th>
<th>Contact Person Email</th>
<th>Provider Address</th>
<th>Comments</th>
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<td>24 Hour Emergency Response</td>
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<td>Interpretation</td>
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<td>Trauma-Specific Counseling</td>
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<td>Legal Advocacy</td>
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<td>Spiritual Care</td>
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</table>
Assess Your Potential Referral Places and Points of Contact for…

- Reputation and well established services
- Professionalism
- Quality of care
- Confidentiality regulations (locked files, anonymous data transfer capacity, file and specimen code numbers)
- Procedures for getting informed consent
- Security (locked, safe location, security guards)

- Private rooms for interviewing, examination and treatment
- Language capacity
- Experience supporting victims of violence, use of trauma-informed care
- Experience with marginalized groups such as migrant workers, minorities, sex workers
- Cultural and religious aspects
- Regulations regarding payment
- Location and accessibility
Referrals – Questions to Ask Ahead of Time (1)

- What services can or cannot be provided?
- How are information and data transferred?
- How is informed consent obtained?
- How will the first contact be arranged? (first point of contact, main point of contact, time available, expected response time for call-backs, case data requirements)
- How do follow-up and continuity of care happen?
Referrals – Questions to Ask Ahead of Time (2)

• How will the trafficked person be released to and received by another organization? (who has the authority, how to assure that reception staff are prepared to receive the referral)

• Is it possible to provide care and treatment on site instead of moving the person?

• How are inter-agency escorts arranged when needed?
REFERRAL SCENARIOS
Four Referral Scenarios

• Referral is urgent or there is imminent danger
• Referral is possible
• No referral at time but patient may come back for follow-up
• Referral is refused or unsafe
Emergency Referral for...

- Altered consciousness
- Dehydration
- Recent fractures and lacerations
- Vaginal or rectal bleeding
- Abdominal pain
- Fever
Imminent Danger

• Ensure your own safety first!
• Focus on the health of the patient; you may need to convince him/her AND the person with them that emergency care is essential.
Take Responsibility for Your Safety

• Don’t give out personal contact details.
• Don’t reveal information about your family and loved ones.
• Don’t take the TIP victim into your home.
• Don’t give out any information.
• Don’t work alone.

• Establish check-in and check-out procedures so your staff know when you are on shift and when you are home.
• Show caution in isolated areas.
• Be vigilant and encourage others to do the same.
If Serious Security Threat....

Prepare in advance an alert system linked to your office, other assistance organizations, or to the local police station to trigger an immediate emergency response in the event of an incident or serious security threat.
When Referral Is Possible…

• Determine the priority needs of your patient
  For example:
  ✓ Safety?
  ✓ Shelter?
  ✓ Food?
  ✓ Clothing?
  ✓ Urgent medical care?
  ✓ More comprehensive health and psychological care? Legal or immigration assistance?
  ✓ Translation services?
  – First explain how the referral could affect him/her. Discuss options, explain how they work and what the benefits are.
Inform Patient and Obtain Consent

• Make sure your patient has a voice in this decision.
• Act only with their consent.
• Help them make the best decision for themselves.
If No Referral Possible at the Time But Patient May Come Back

• Maintain your professional role by providing comprehensive management, including arranging follow-up care and visits.
• On the next visit, the patient may have developed sufficient trust to request different assistance, or you may face different circumstances and a safer environment for referral.
What If Referral Is Not Possible?

• This may happen if:
  – The situation is too unsafe
  – The patient refuses
  – The patient is subject to deportation or immediate return home

• Maximize the encounter to make as positive an impact on their health as possible.
Maximize the Encounter by Providing Information to the Patient on:

- Their medical condition, treatment and necessary follow-up (medical summary and referral documents).
- Complete regimen of medications in that single encounter. Assume they may not come back. Use single dose therapy when possible.
- The crime of trafficking, available support services, including hotline numbers, details on where to go and whom to call in the future if desired.
When Communicating Information to the Patient, Be Careful....

- Documents may be traced back to you or your health facility.
- Put the information on a small piece of paper that your patient can hide under clothing or tuck in undergarments.
What about HIPAA?

• This is often a concern for health care providers.

• HIPAA is the Health Insurance Portability and Accountability Act of 1996, which introduced the “privacy rule” regarding the use and release of protected health information (PHI).

• PHI includes name, birthdate, certain demographic information on past, present, and future medical conditions, dates of medical care provision, and information related to the payment of rendered care.
HIPAA (2)

- It is not simple....however...
- You always need to ask permission from the patient before sharing PHI.
- If the patient does not give permission, reporting is only permitted under specific exclusions or exemptions defined by HIPAA.
- If you suspect a patient is a trafficking victim, you should first know what your state mandates about disclosure – for example, in response to requests from law enforcement. When reporting is mandated, reporting must be made.
Flow Chart Examples³

• The following three slides show possible flow charts for approaches following discovery of a domestic victim by self-referral, community based organizations, good Samaritans, medical providers or social services. The third slide shows that process for a foreign national minor survivor.

  – Adult survivor
  – Domestic minor
  – Foreign national minor survivor

• The path is somewhat different if discovery is by law enforcement, but the overall pattern is the same.
Adult:

Based on individual situation, but may include: Residential Treatment, Permanent Housing, Mental Health Services, Drug and Alcohol Treatment, Educational Services, Employment Training and Placement, Legal Services, Medical Services, Cultural/Community Orientation, Life Skills Education, Referral to Public Benefits, Interpretation and Translation Services.
Domestic Minor:

- Self-Referral, CBO, Good Samaritan, Medical, Social Services
- Law Enforcement
  - Officers/Agents
  - Victim Specialists
  - Rapid reporting to LE is key to effective investigation. 72 hour window for evidence retrieval.

- Point Person

- County Child Welfare Office

- County Juvenile Court

- Home

- Case Manager

- Safety Planning

- Basic Needs & Medical Care

- Safe House

- Foster Care

- Residential Treatment

- Legal Advocacy

Implement Service Plan

Based on individual situation, but may include: Individual and group therapy, life skills training, GED or High School Diploma completion, Vocational Training, Drug and Alcohol Treatment, Educational Services, Medical Services.
Foreign National Minor:

- Law Enforcement Officers/Agents Victim Specialists
- HHS/ORR and/or County Child Welfare Office
- County Juvenile Court
- Home
- Case Manager
- Safety Planning
- Basic Needs & Medical Care
- Safe House
- Foster Care
- Residential Treatment
- Legal Advocacy

Implement Service Plan

Based on individual situation, but may include: Individual and group therapy, life skills training, GED or High School Diploma completion, Vocational Training, Drug and Alcohol Treatment, Educational Services, Medical Services.
Foreign National Minor Trafficking Victim

• Immediately contact the Child Protective Specialist at U.S. Health and Human Services/Office of Refugee Resettlement.

• HHS/ORR can issue interim assistance and/or eligibility letter that would allow an unaccompanied child victim of trafficking to access services/benefits, including the unaccompanied Refugee Minor Program.

• Additional information can be accessed through the website for the Administration for Children and Families of HHS. http://www.hhs.gov
Some Words of Wisdom

• You may not be able to rescue your patient due to security risks to you and/or your patient. The responsibility is not yours alone.
• Don’t try to rescue your patient if you are not yet linked to the protection system available for trafficked persons in your area.
• Don’t contact the authorities (police, immigration, e.g.) without explaining that this is an option and gaining the patient’s permission.
SHORT AND LONG-TERM NEEDS
Short-Term Needs (1)

- Temporary housing
- Basic medical assistance
- Food and clothing
- Legal services – court orientation services
- Emergency counseling
Short-Term Needs (2)

- Detoxification treatment
- Translation services
- Transportation
- Legal guardianship
Basic Personal Hygiene Needs

- Underwear
- Clothing
- Tampons
- Personal hygiene items
Long-Term Needs of Victims – Case Management (1)

- Mental health counseling; spiritual health counseling
- Assistance accessing documents
- Life skills training
- Financial management assistance and skills
- Reunification with families or repatriation
Long-Term Needs of Victims – Case Management (2)

- Legal services and help navigating systems; assistance with access to documents
- Permanent housing
- Childcare - keep in mind that victims may have children of their own
- Job Training
Other Services (1)

- Juvenile justice and detention centers
- Child welfare and child protection services
  - Children of victims will need special attention, such as re-establishment of health services, immunization and nutrition, schooling, mental health services as witnesses to trauma
Other Services (2)

- Child advocacy centers (to assist with evaluation for possible sex abuse and neglect)
- Mental health and substance abuse programs
Part of the Caring also Includes…

Helping the healing process through self-expression – through art, music, movement or dance, sports, picnics, celebrations, creative writing such as poems and stories.
Law Enforcement Notification Requirements

• If you suspect a felony, you must report it to your local law enforcement agency.

• International TIP victims should be reported to the Department of Homeland Security.

• Domestic TIP victims should be reported to either local police or the FBI.
Working with Law Enforcement

- Any suggestion of coercion or exploitation at the time of rescue and screening by the police can enable an individual to be identified as a potential TIP victim.
- Investigating and building a case is a challenge and can be limited by the willingness of the victim to cooperate. She may mistrust the police and the legal system. Yet, witness testimony is crucial in prosecution as a criminal case.
Safety First

- If you suspect trafficking, assure patient safety until law enforcement arrives. This may involve creative planning such as arranging ahead of time for security/law enforcement to take the patient to another secure room until the FBI/DHS arrives.
Our Responsibility

• Prosecutors and law enforcement are grateful for a healthcare professional who has documented abuse and is willing to provide court testimony.
• If there is an index of suspicion, we must act upon it appropriately within the scope of the law and local protocols. We do not need proof, only an index of suspicion in order to report abuse.
What are the Steps to Follow? (1)

• Follow the National Protocol for Sexual Assault Medical Forensic Examination.
• Consult your state protocol for laws, examination process and submission of sexual assault kits to the crime lab.
What are the Steps to Follow? (2)

• Get SANE training (sexual assault nurse examiner).
• Coordinate with other professionals to minimize repetitive questions (and re-traumatization).
Sexual Assault Response Team (SART)

- Law enforcement
- Prosecutor
- Advocate
- Crime lab
- Children’s Service
A Word of Caution....

- The patient can decline any or the entire exam and we must support their decisions. Giving control back during the exam is vital for the healing to begin.
- Exams and evidence collection can be difficult, but when done in a compassionate and respectful manner can help with the healing process.
What is Court Evidence?

- Patient’s history
- Written documentation
- Photo-documentation
- Clothing
- Photos of wounds
- Foreign bodies
- Findings from blood/urine/emesis
- Vaginal and penile swabs; pubic hair
Documenting Abuse

• Get the patient’s statement in their own words.
• Don’t sanitize it.
• Be able to paint a vivid picture for the jury if a trial ensues.
• These statement will demonstrate the actual severity if the patient recants or minimizes.
Other Important Parts of Your Exam

- Photography and body diagrams.
- Accuracy in annotations to medical records for forensic experts to review.
- Documentation of wound characteristics,
  - differences between sharp and blunt trauma,
  - choking vs. strangulation,
  - patterns of injury (belt, burn, bite).
Photography Tips

- Get consent
- A picture is worth a 1,000 words
- Photograph before cleaning or suturing
- With and without a ruler
- 90 degree angle
- Indirect lighting
THE HEARSAY RULE
Hearsay Rule – The Medical Exemption

• The federal rules of evidence outline what evidence is allowable in court. Generally, hearsay (heard but not witnessed) is **not** allowed.

• However, what a patient tells a healthcare professional **can** be allowed as testimony, since this is considered to be truthful. A patient seeking medical care has no reason to be untruthful.
Hearsay Rule (2)

• So, documentation of the patient’s medical history, account of abuse, documentation of injuries is valuable court testimony. This may be vital to a case, especially if the patient is unable or unwilling (out of fear) to testify.

• A jury is likely to see the health care professional as unbiased. That witness may be considered the most valid by a jury.
Hearsay Rule (3)

• Under the Federal Rules of Evidence, Rule 803 (4), a statement made for Medical Diagnosis or Treatment is one that:
  
  – Is made for, and is reasonably pertinent to, medical diagnosis or treatment; and
  
  – Describes medical history; past or present symptoms or sensations; their inception; or their general cause.
Creating Rapport and Trust

- Creating rapport, trust and gaining confidence with a victim takes time.
- Placement of a victim in a safe location can help them relax, feel supported and safe. They may be more willing to cooperate with law enforcement as a result.
“Reflection Time”

• A best practice has identified up to three months as the time needed for a victim to rest, gain perspective and consider the possibility of involvement in criminal prosecution ⁴.
Challenging Legal Issues

• Having been forced into trafficked situation, these victims don’t want to be forced again – to be witnesses in court.

• Victims may be stateless – and need rights of citizenship. Non-citizens are more vulnerable.
Challenging Legal Issues

- Children born to foreign trafficked women may have no birth certificate, and therefore no legal access to health care or education.
- Trafficked women may become traffickers themselves.
LEGAL PROTECTIONS FOR TIP VICTIMS
Legal Protections Available to Immigrant Torture Survivors

Lawyers will handle the details of these, but it is helpful for healthcare professionals to be aware of these options (and even just the terms themselves):

- Asylum
- Withholding of removal
- Convention Against Torture (CAT)
- Violence Against Women Act (VAWA)
- Crime Victims (U visa)
- Special Immigrant Juvenile Status
US Citizenship and Immigration Services (USCIS)

• As a component of the Department of Homeland Security, USCIS has responsibilities that cover:
  – Citizenship (Includes the Related Naturalization Process)
  – Immigration of Family Members
  – Working in the U.S. (green card or temporary)
  – Verifying an Individual’s Legal Right to Work in the United States (E-Verify)
  – Humanitarian Programs
Forms of USA Immigration Relief for Victims

- Continued presence (CP)
- T- non immigrant status
- U non-immigrant status
- Lawful permanent resident status
Benefits with Immigration Relief

• Legal status in the U.S.
• Public benefits (food stamps, cash assistance, Medicaid, SSI) – only for those with T non-immigrant or CP status
• Work authorization
• T and U non-immigrants can bring some family members into the U.S.
T and U Non-Immigrant Visas

• These are a more permanent forms of relief for victims of trafficking who are assisting law enforcement to remain in the U.S.

• The U visa is an incentive for victims to report crimes to law enforcement so that they can detect, investigate and prosecute crime, such as TIP.
T Non-Immigrant Status

- Must be a victim of severe TIP.
- Must be physically present in the U.S. because of TIP.
- Must be compliant with requests for assistance in the investigation or prosecution.
- It is valid for four years.
U Non-Immigrant Status

- Must be a victim of qualifying criminal activity (including TIP) which occurred in the U.S. or violated U.S. laws.
- Must possess information about the crime.
- Has been or likely to be helpful in the investigation and prosecution of the crime.
YOU AS THE EXPERT WITNESS
The HCP as a Witness

- You may be asked to provide expert testimony in court. To determine if you are independent from the process and case, you will be asked:
  - Your training and expertise
  - If you are related to the attorney
  - If you are affiliated with a university
  - If you are being paid for your work as an expert witness
  - If you ever found a case that was negative.
The HCP as a Witness...

- The court wants to determine your level of expertise and objectivity or whether you are trying to “help.”
Your New Role

You are not the doctor and the person is not your patient, unless you are providing care and treatment, with medical record support.
Testifying for a Client (1)

• Before the court date:
  – Discuss testimony with client’s attorney
  – Review your affidavit

• During questioning:
  – Answer hostile questions courteously
  – Be clear about limits of expertise
  – If you don’t know the answer, say so
Testifying for a Client (2)

• Via telephone (most common):
  – Speak clearly and coherently
• In court
  – Dress professionally
  – Don’t get ruffled
The Role of Clinical Affidavits (1)

• These are written documents of expert opinion.
  – Consistency of psychological/physical evidence with client’s account of abuse
  – Submitted to immigration authorities
  – Part of the relief application (supporting document)

• Include photographs when possible (medical exams).
The Role of Clinical Affidavits (2)

• They establish past persecution/torture.
  – Physical and psychological effects
• Support subjective basis for well founded fear.
• Additional evidence: applicant’s testimony, personal documents, country conditions and expert testimony.
Proposed Terms to Use in the Assessment

- “Not consistent”
- “Consistent”
- “Highly consistent”
- “Typical”
- “Diagnostic”
What Makes for a Good Witness or Affidavit?

• Comments that don’t extend beyond strict facts.
• No statements on the client’s credibility, unless appropriately contextualized.
• Evidence that you tested for malingering.
What Makes for a Good Witness or Affidavit?

• Factual, non-emotional assessments (let the client be the drama in the case, not you).
• Diagrams, photos when appropriate.
• No statements that say the life of the client will be endangered if they have to return to their country (up to the judge to decide that).
WHAT DOES SUCCESS LOOK LIKE?
What Does Success Look Like? (1)

“We know we have been successful when we move a person from victim to survivor.”

- A service provider

Stop Human Trafficking

Christian Medical & Dental Associations®
Changing Hearts in Healthcare
What Does Success Look Like? (2)

- A sense of safety for self and family
- Trust with service providers and law enforcement
- Healthy coping strategies when faced with stress
- Self-esteem and self-worth
- Employment
What Does Success Look Like? (3)

- Permanent housing
- Connecting to a community and a sense of belonging
- Self-sufficiency
- Becoming an advocate for self and others
- Reuniting with family (if indicated)
SOME REALITIES
Systems Are Not Perfect

- Some support services can be inexperienced, short staffed, under-funded and overwhelmed with paper work and documentation.
- Some law enforcement may be more interested in criminal justice outcomes than protecting the victim, who can be re-traumatized by the legal process.
Systems Are Not Perfect\(^7\)
(cont’d)

- Bureaucracies move slowly; bureaucrats may not know how to expedite processes, how to interpret the legal guidance, how to help access T and U visas and the accompanying benefits. A simple thing like lack of transportation to services can bottleneck a good plan.

- Systems may operate in rationalized and compartmentalized ways that can appear systematic, whereas the reality is much “messier.”
Uncertainties......

“The authorities take full advantage of [women], promise them temporary visas and other things, but it all depends on the evidence… There is no “payment” at the end of this process, no certain outcome…even if women go to court and give evidence, there are no guarantees they will get a visa.” 8

- A Legal Aid Solicitor in Australia
Nor Are Victims Perfect Either

- Some victims may feel “imprisoned” by shelter systems with restrictive processes, burned-out staff and lots of rules.
- In some shelters, victims may have interpersonal “issues” with the other victims and with staff. Fights can break out.
Nor Are Victims Perfect Either

• Victims have been abused, lied to, made fearful and they may not “cooperate” even when it is meant for their good. Their mental health state can cloud their perspective and block their responsiveness.

• Victims may still be working out guilt issues, traumatic brain injury and the effects of misuse of drugs, alcohol and other substances.
It’s Not a Perfect World

• “There is no cookie cutter approach to working with this population... You just don’t know how long you will be working with them. Just when you think they are moving forward, something happens with their case or with their family or they see something in the news that triggers the trauma experience and sets them back sometimes months in their progress. A lot of times it is one step forward and two or three steps back. You just have to be prepared for setbacks.” ⁹
SELF CARE
A Final Word

• We live in a broken world.
• We are entering a stronghold of the enemy.
• So take care of yourself.
  – Know thyself! Your own history, family history, etc.
  – Mental and emotional health challenges
  – Boundary setting
• Seek out support and prayer groups.
• Cast all your cares on Him.
Acknowledgements for References

- Some materials are used (and quoted) liberally throughout this module. They are not footnoted per se but much credit is given to them in the next slide.
- The reader is encouraged to explore those source materials to extend the learning process.
General References

• Caring for Trafficked Persons: Guidance for Health Providers. IOM, Geneva, 2009
• The IOM Handbook on Direct Assistance for Victims of Trafficking. IOM, Geneva, 2007
• Office of Victims of Crime Training and Technical Assistance Center (OVC TTAC), 2012
• HealthRight Victims of Torture training materials (2011) and the website by the same name
Footnotes

1. Health and Human Services Dimensions of CSEC: Presentation to the National Academy of Sciences’ Committee on Sexual Exploitation and Sex Trafficking of Minors in the United States, January 4, 2012


3. Ibid, p 60, 64,66


5. Alice Clapman, Esq, Health Right Victims of Torture, training materials, 2011


Post Test

Your success in gaining knowledge through this model is important to us. To measure what you have learned, click on this link.

https://www.surveymonkey.com/r/PG6Q7KC

To receive continuing education credits for this module, you MUST complete the online evaluation through the link above and pay any appropriate fees (see http://www.cmda.org/library/doclib/tipcepaymentform.pdf for more information).