

G. Mennen Williams
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Michigan Department of Attorney General

Vulnerable Adults & Financial Exploitation



1. Mandatory Reporters

- Financial institutions (banks and credit unions) are now financial exploitation mandatory reporters—new 2021 .

2. “Vulnerable Adult”

- Medical diagnosis not necessary.

3. Financial Exploitation

- Warning signs/red flags.
- Durable Power of Attorney
- Tools to help professionals spot and report financial exploitation

Mandatory Reporter Training for Adult Abuse, Neglect, and Exploitation

State of Michigan Attorney General's
Elder Abuse Task Force



Those **employed**, licensed, registered, or certified to provide (or employees of an agency licensed to provide) the following services:

- Health care
- Education
- Social welfare
- Mental health
- Other human services



Who is a Mandatory Reporter?



A close-up photograph of two hands shaking, symbolizing agreement or support. The hands are positioned horizontally across the middle of the frame. The background is a soft, out-of-focus light color. A dark purple rectangular box is overlaid on the left side of the image, containing white text.

Financial Exploitation Prevention Act
MCL 487.2081 et seq

FAST FACTS ABOUT FEPA

- Effective on September 26, 2021
- Requires financial institutions (banks and credit unions) to report financial exploitation of their vulnerable customers/members.
- Allows financial institutions to freeze transactions/assets under certain circumstances.

WHY IS FEPA IMPORTANT?

A financial institution employee may be the only person who sees suspicious spending if the victim is private about finances or socially isolated from friends or family.

FINANCIAL INSTITUTION DUTIES

Develop a policy and training for:

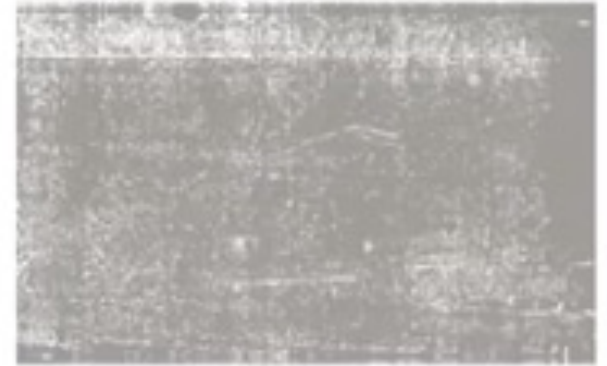
- Recognizing covered financial exploitation of members/customers.
- Reporting that activity to law enforcement/APS.
- Freezing assets or transactions when exploitation is suspected.

“COVERED FINANCIAL EXPLOITATION” DEFINED

“Financial exploitation of an individual through deception, manipulation, coercion, intimidation, or improper leveraging of a caregiver relationship.”

Failure to Report

- \$500 civil fine
- And/or civilly liable for damages caused by your failure to report
- Potential licensing penalties (check your licensing requirements)



Vulnerable Adult



Criminal law definition:

An individual age 18 or over who, because of age, developmental disability, mental illness, or physical disability requires supervision or personal care or lacks the personal and social skills required to live independently. MCL 750.145m(u)(i)

Vulnerable Adult



750.145m(u) also references a “vulnerable adult” as:

(ii) An adult as defined in section 3(1)(b) of the adult foster care facility licensing act, MCL 400.703.

Vulnerable Adult



750.145m(u) also references a “vulnerable adult” as:

(iii) An adult as defined in section 11(b) of the social welfare act, MCL 400.11.

400.11 Definitions.

*** (b) "Adult in need of protective services" or "adult" means a vulnerable person not less than 18 years of age who is **suspected of being or believed to be abused, neglected, or exploited.**

Vulnerable Adult



750.145m(u) also references a “vulnerable adult” as:

MCL 400.703

(1) "Adult" means:

(a) A person 18 years of age or older.

(b) A person who is placed in an adult foster care family home or an adult foster care small group home according to section 5(6) or (8) of 1973 PA 116, MCL 722.115.]

Incapacitated Individual



Public often uses the term “incompetent”

“An individual who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause, not including minority, to the extent of lacking sufficient understanding or capacity to make or communicate informed decisions.”

MCL 700.1105a

COMMON MYTH: VULNERABLE ADULT



- MYTH: A person must have a medical diagnosis of Alzheimer’s dementia, or other similar condition to be a “vulnerable” adult.



People v. Haynes

__Mich. App__ (Docket No. 350125) (2021)



Financial advisor stole over \$300,000 from a vulnerable adult. The advisor (Haynes) was convicted of:

- Conducting a Criminal Enterprise.
- Embezzlement by an agent.
- Embezzlement from a vulnerable adult, and
- Filing false tax returns.

People v. Haynes

___Mich. App___ (Docket No. 350125) (2021)

Medical diagnosis not necessary to be a “vulnerable adult”



Victim was in her 90s and lived alone.

- No cognitive impairment.
- Needed assistance with Activities of Daily Living (ADLs).

People v. Haynes

___Mich. App___ (Docket No. 350125) (2021)

Medical diagnosis not necessary to be a “vulnerable adult”



Victim needed help:

- Cleaning.
- Picking up mail.
- Driving/running errands.
- With medications.

People v. Haynes

___Mich. App___ (Docket No. 350125) (2021)

Medical diagnosis not necessary to be a “vulnerable adult”



Victim's physical limitations:

- Needed a cane or walker.
- Arthritis in her hands.
- Poor vision and trouble hearing.

***People v. Haynes* | MCOA No. 350125**

- Victim's nephew took her to local law enforcement to make a report. City detective conducted a brief investigation, told the nephew the case was civil, and closed the file.
- Victim asked the bank for help. Bank called the suspect but didn't report to law enforcement.



***People v. Haynes* | MCOA No. 350125**

- Attorney General Nessel’s office investigated, prosecuted Haynes, and prevailed on appeal.
- Court of Appeals determined there was sufficient evidence for the jury to find that the victim met the criminal law definition of a “vulnerable” adult.



FINANCIAL EXPLOITATION



What Is Financial Exploitation?



- **Any inappropriate access to an elderly person's funds or property.**
- An unscrupulous family member, "professional," or stranger might:
 - misuse an elder's personal checks, credit cards, or accounts;
 - steal cash, checks, or household goods;
 - forge the elder's signature; or
 - engage in identity theft.

Financial Exploitation Warning Signs



Unpaid bills (rent, medical, foreclosure warnings, utility shut off).



Unusual changes in spending patterns (increase in ATM withdrawals, checks made out to “cash” or written out of order).

Financial Exploitation Warning Signs



Missing household items (heirlooms, expensive tools, or other valuable items).



Unexpected changes in wills or property deeds (property deeded/will changes to benefit “new friend”).

Financial Exploitation Warning Signs



Purchase of large items the older adult does not use (vehicles when the adult does not drive, motorcycle, boat, ATV, timeshare or lavish vacation when adult is homebound).

ASK YOURSELF:

What do I
notice
about this
individual?



ASK YOURSELF:

**Do they seem confused
or have difficulty
remembering
recent events?**

**Do they come alone or
is a new person “friend”
coming with them?**



ASK YOURSELF:

Does the client seem fearful?

Is the person with the client over-bearing or speaking for client?



ASK YOURSELF:

Have there been recent changes in the client's life, health or ability to complete daily tasks?

Do I have concerns with the client's financial management?



Financial Management Concerns



- Do you know how the client's finances are managed (any assistance)?
- Has the client told you they have financial problems or concerns?
- Have you noticed a change in the client's buying habits?
- Do you know if there is a power of attorney, joint account holder, etc.?

A power
of attorney
is not a
license to
STEAL!



What Is a Durable Power of Attorney?

A durable power of attorney (DPOA) refers to a power of attorney which typically remains in effect until the death of the principal or until the document is revoked.

Some DPOAs do not take effect **until** the principal becomes disabled or incapacitated. See MCL 700.5501(1).



DPOA Acknowledgement of Duties

- For any DPOA executed on or after October 1, 2012, the agent is required to execute an acknowledgment of their responsibilities.
MCL 700.5501(4)
- Failure to execute this statement does not relieve the agent of responsibility or liability.



DPOA Acknowledgement of Duties cont'd.

- Must act in accordance with fiduciary standard of care.
- Must take reasonable steps to follow the instructions of the principal.
- Must retain records of transactions as DPOA, including receipts.
- Must keep principal informed upon request, including providing an accounting upon request of the principal, or request of a guardian/ conservator for principal.



DPOA Acknowledged Limits on Powers

- Must not use principal's property to make gifts unless the DPOA or a judicial order allow.
- Must not create a joint account or other joint asset between the DPOA and the principal unless the DPOA or a judicial order allow.



DPOA Acknowledged Liabilities

- May be liable for damages/losses to principal, and may be liable for breach of fiduciary duty owed to the principal, although DPOA may exonerate the agent for breach of duty except for actions taken with bad faith or reckless indifference
- May be subject to civil or criminal penalties for violation of duties.





ELDER ABUSE TASK FORCE

Key Statutes

- MCL 750.174 Embezzlement by an Agent
- MCL 750.174a Embezzlement from a Vulnerable Adult
- MCL 750.181 Embezzlement from a Joint Account
- MCL 750.362 Larceny by Conversion
- MCL 750.159g Racketeering (predicate offenses include embezzlement by an agent, larceny, securities fraud, and false pretenses)

Vulnerable Adult Incident Report

NAME		AGE	DOB	EMERGENCY CONTACT	PHONE
DATE REPORTED	TIME REPORTED	DATE AND TIME INCIDENT OCCURED			FILE NO:
INCIDENT LOCATION				REPORTING OFFICER	

VULNERABLE + HARM = MANDATORY Reporting to Adult Protective Services at (855) 444-3911

WHEN ABUSE/NEGLECT/EXPLOITATION IS SUSPECTED

- | | |
|---|---|
| 1. <input type="checkbox"/> Determine if the victim is a Vulnerable Adult (VA) | 4. <input type="checkbox"/> Determine whether you are required to report to APS or others |
| 2. <input type="checkbox"/> Determine whether the VA can see, hear and communicate ideas.
Cognition may be diminished before competency (see below). | 5. <input type="checkbox"/> Evidence and forms for collection |
| 3. <input type="checkbox"/> Determine harm, if any to the VA | 6. <input type="checkbox"/> Crimes and elements |

Is the Victim a vulnerable Adult? (Documenting lack of ability is important)

- | | | |
|--|--|--|
| <input type="checkbox"/> Over 18 | <input type="checkbox"/> 65 years or older | |
| <input type="checkbox"/> Victim needs assistance with ADLs (Activities of Daily Living): | | |
| <input type="checkbox"/> Walking | <input type="checkbox"/> Sitting | <input type="checkbox"/> Eating |
| <input type="checkbox"/> Cooking | <input type="checkbox"/> Getting Water | <input type="checkbox"/> Getting Dressed |
| <input type="checkbox"/> Bathing | <input type="checkbox"/> Getting out of bed | |
| <input type="checkbox"/> Transportation | <input type="checkbox"/> Taking medication | |
| <input type="checkbox"/> Doctor visits | <input type="checkbox"/> Banking/Financial affairs | |

- Unable to protect self from abuse, neglect or exploitation
(Vulnerable Adult MCL 750.145m(u))

Comments (if the victim is not vulnerable, continue with normal investigation): _____

Activities of Daily Living (ADL'S)

Ability to Care for Self (bathing, grooming, transportation, walking, toileting etc.)

Level of Function: Independent Needs Assistance Total Care

Describe: _____

Instrumental Activities of Daily Living (IADL'S)

Financial Decision-Making (bills, donations, investments, real estate, wills, protect assets, resist fraud etc.)

Level of Function: Independent Needs Assistance Total Care

Describe: _____

Medical Decision-Making (express a choice and understand, appreciate, reason about health info, etc.)

Level of Function: Independent Needs Assistance Total Care

Describe: Guardian Conservator

Doctor Name and contact information: _____

PHYSICAL RISK ASSESSMENT

If the adult is vulnerable, is there harm? Abuse Neglect Financial Provide explanation as needed in narrative

- | | | | |
|---|--|--|---|
| <input type="checkbox"/> Soiled bedding | <input type="checkbox"/> Lock on victim's door | <input type="checkbox"/> Narcotic medication | <input type="checkbox"/> Unusual physical signs |
|---|--|--|---|

Evidence of Harm

If the victim is vulnerable, is there harm?

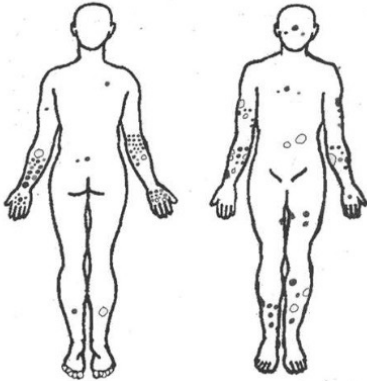
- Abuse
- Neglect
- Financial Exploitation

Vulnerable Adult Incident Report				
NAME	AGE	DOB	EMERGENCY CONTACT	PHONE
DATE REPORTED	TIME REPORTED	DATE AND TIME INCIDENT OCCURED		FILE NO:
INCIDENT LOCATION			REPORTING OFFICER	
VULNERABLE + HARM = MANDATORY Reporting to Adult Protective Services at (855) 444-3911				
WHEN ABUSE/NEGLECT/EXPLOITATION IS SUSPECTED				
1. <input type="checkbox"/> Determine if the victim is a Vulnerable Adult (VA)		4. <input type="checkbox"/> Determine whether you are required to report to APS or others		
2. <input type="checkbox"/> Determine whether the VA can see, hear and communicate ideas. Cognition may be diminished before competency (see below).		5. <input type="checkbox"/> Evidence and forms for collection		
3. <input type="checkbox"/> Determine harm, if any to the VA		6. <input type="checkbox"/> Crimes and elements		
Is the Victim a vulnerable Adult? (Documenting lack of ability is important) <input type="checkbox"/> Over 18 <input type="checkbox"/> 65 years or older <input type="checkbox"/> Victim needs assistance with ADLs (Activities of Daily Living): <input type="checkbox"/> Walking <input type="checkbox"/> Sitting <input type="checkbox"/> Eating <input type="checkbox"/> Cooking <input type="checkbox"/> Getting Water <input type="checkbox"/> Getting Dressed <input type="checkbox"/> Bathing <input type="checkbox"/> Getting out of bed <input type="checkbox"/> Transportation <input type="checkbox"/> Taking medication <input type="checkbox"/> Doctor visits <input type="checkbox"/> Banking/Financial affairs <input type="checkbox"/> Unable to protect self from abuse, neglect or exploitation (Vulnerable Adult MCL 750.145m(u))			Activities of Daily Living (ADL'S) Ability to Care for Self (bathing, grooming, transportation, walking, toileting etc.) Level of Function: <input type="checkbox"/> Independent <input type="checkbox"/> Needs Assistance <input type="checkbox"/> Total Care Describe: _____	
Comments (if the victim is not vulnerable, continue with normal investigation): _____ _____ _____ _____			Instrumental Activities of Daily Living (IADL'S) Financial Decision-Making (bills, donations, investments, real estate, wills, protect assets, resist fraud etc.) Level of Function: <input type="checkbox"/> Independent <input type="checkbox"/> Needs Assistance <input type="checkbox"/> Total Care Describe: _____	
			Medical Decision-Making (express a choice and understand, appreciate, reason about health info, etc.) Level of Function: <input type="checkbox"/> Independent <input type="checkbox"/> Needs Assistance <input type="checkbox"/> Total Care Describe: <input type="checkbox"/> Guardian <input type="checkbox"/> Conservator	
			Doctor Name and contact information: _____ _____	

PHYSICAL RISK ASSESSMENT

If the adult is vulnerable, is there harm? Abuse Neglect Financial Provide explanation as needed in narrative

- | | | | |
|---|---|--|--|
| <input type="checkbox"/> Soiled bedding | <input type="checkbox"/> Lock on victim's door | <input type="checkbox"/> Narcotic medication | <input type="checkbox"/> Unusual physical signs |
| <input type="checkbox"/> Soiled Bandages | <input type="checkbox"/> Bilateral grip marks | <input type="checkbox"/> Evidence of cleaning prior to arrival | <input type="checkbox"/> Filthy living conditions for victim, including common areas |
| <input type="checkbox"/> Victim is in pain | <input type="checkbox"/> Foul Smell | <input type="checkbox"/> Inconsistent explanation of care | <input type="checkbox"/> No sign of pain reliever (aspirin etc.) |
| <input type="checkbox"/> Dehydrated | <input type="checkbox"/> Stopped seeing doctor | <input type="checkbox"/> Lack of food/malnutrition | |
| <input type="checkbox"/> Lack of Medication | <input type="checkbox"/> Lack of access to mobility | | |



Body Image Diagram
Describe injury (redness, bruising etc.)

Older adults can experience bruising in dotted areas - Note anything unusual or outside the area.

Medical Treatment following incident

- None
 Will seek own doctor
 First Aid
 EMT* EMT at scene Yes No
 Name(s): _____
 Hospital ** Name: _____
 Attending Physician: _____
 Refused Medical Aid
 Obtain Medical Release Form from victim? Yes No
 Obtain Medical Release Form from Guardian or Conservator? Yes No
 Crime victim information given to victim? Yes No
 Protective Services Referral completed? Yes No

Residence Type? (When victim is found)

- Private
 Public Housing
 Assisted Living
 Licensed Nursing Home
 Hospital
 Homeless
 Unknown
 AFC Home (Licensed or not)
 Other: _____

If the adult is vulnerable and has been harmed, consent is often an issue. Ask Questions to assess:

- Confusion Possible Intimidation Possible Infection or fever

Possible questions include:

- Are you in pain? Would you like to be cleaned up? When was the last time you ate?
Are you thirsty? Would you like salve for your wound? Would you like to see a doctor?

*****If the adult has open wounds and is refusing to see the doctor it may be because they have been told the caregiver will go to jail and the adult will be in a nursing home. See Parasitic Living***

FINANCIAL HARM -- APS also accepts reports of financial harm to vulnerable adults

- Parasitic Living: "Caregiver's" sole source of income is the victim
- Caregiver/suspect controls the money, no audit/no 2nd look
- Poor or no care being given to the victim
- Not providing adequate care to the victim because it would require "caregiver" to pay for care instead of spending money on the "caregivers" desires or needs
- "Caregiver" may fail to seek adequate medical attention to avoid criminal charges of vulnerable adult abuse neglect
- List of all services performed by suspect/amount of pay for the services
- Income claimed on suspect's taxes

Other Financial Harm

Controlled by Victim Other: _____

Bank Account (Institution): _____

Bank Account Number: _____

- Ownership of property damages (deeds, car titles, accts)
- Misuse of legal documents (DPOA, guardianship, conservatorship – depleting Vulnerable Adult's assets
- New friend/person helping with finances – church, grocery store, estranged family member
- Requested records/receipts for expenditures by suspect
- Power of Attorney – Since 2012 a POA requires a signed acknowledgement to keep receipts and prohibits joint accounts & gifts-to-self unless explicitly allowed in the POA
- Second mortgage or reverse mortgage
- Quit Claim deed
- New auto the victim does not drive
- New or missing credit cards
- Missing valuables or antiques

COGNITION is not an all or nothing matter. Current research shows that financial savvy may decline in every human brain after the age of 60 regardless of how smart you are. Ask questions that help you find out if the person understands the consequences of their actions.

- Ownership of property damages (deeds, car titles, accts)
- Misuse of legal documents (DPOA, guardianship, conservatorship – depleting Vulnerable Adult's assets)
- New friend/person helping with finances – church, grocery store, estranged family member
- Requested records/receipts for expenditures by suspect
- Power of Attorney – Since 2012 a POA requires a signed acknowledgement to keep receipts and prohibits joint accounts & gifts-to-self unless explicitly allowed in the POA
- Second mortgage or reverse mortgage
- Quit Claim deed
- New auto the victim does not drive
- New or missing credit cards
- Missing valuables or antiques

<p><u>Referral to Adult Protective Services</u></p> <p><input type="checkbox"/> The matter has been reported to APS</p> <p><input type="checkbox"/> APS has determined the victim is an adult in need of assistance</p> <p><input type="checkbox"/> A case worker is assigned</p> <p><input type="checkbox"/> Contact information for APS provided: _____</p> <p>_____</p> <p>Describe: Add name and contact information for APS and the date an oral referral was made to APS at 1-855-444-3911</p>	<p><u>Evidence:</u></p> <p><input type="checkbox"/> A copy of all purportedly legal documents obtained</p> <p><input type="checkbox"/> A copy of financial statements obtained</p> <p><input type="checkbox"/> Vehicles owned by victim</p> <p><input type="checkbox"/> Vehicles owned by person in charge of the money</p> <p><input type="checkbox"/> Photographs of living conditions, wounds, evidence destruction, locks, location of mobility devices, victim injuries</p> <p><input type="checkbox"/> Release of medical records by victim or by conservator/guardian</p> <p><input type="checkbox"/> Photographs taken by: _____</p> <p>_____</p>	<p><u>Lethality Assessment</u></p> <p><input type="checkbox"/> Intimidation by threats, yelling</p> <p><input type="checkbox"/> Suspect has used or threatened to use a weapon</p> <p><input type="checkbox"/> Suspect abuses Alcohol/Drugs</p> <p><input type="checkbox"/> Victim is unable / not allowed to perform Activities of Daily Living (ADLs)</p> <p><input type="checkbox"/> Victim has opened / untreated wounds, lack of ADLs</p> <p><input type="checkbox"/> Suspect controls finances of the victim</p> <p><input type="checkbox"/> Victim isolated from friends, relatives, activities</p> <p><input type="checkbox"/> Victim's physical condition poor/declining</p> <p><input type="checkbox"/> Victim's mental conditions poor/declining</p> <p><input type="checkbox"/> Victim living conditions poor/subs.</p> <p><input type="checkbox"/> Prior incidents involving APS/Law Enforcement</p>
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At the Death Scene of An Older Adult

What would you see at the scene if the victim was 20 instead of 87?

Who was the last person to see the deceased?

Who would benefit from death Is there obvious neglect?

Was the person responsible for the care in a parasitic living arrangement with the victim?

POSSIBLE ACTIONS TO BE TAKEN

- In emergency medical situations call an ambulance
- Report to APS as required
- When necessary, ask APS to freeze assets in Probate Court
- Evidence of spending may be the motive for physical abuse, obtain consent or search warrants when necessary to obtain financial evidence
- Give all information to medical examiner (Request autopsy)

STATUTES TO KNOW

Embezzlement of Vuln. Adult 750.174a	Embezzlement 750.174
Obtaining a False Signature 750.273	Fraud / False Pretenses 750.218
Racketeering 750.159i	Embezzlement / Joint Account 750.181
Identity Theft 445.65	Caregiver Commingling 750.145p

*Source: Emerson, C. & Painter, R. – Prosecuting Attorneys Association of Michigan
Teter, S. – Michigan Attorney General's Office*



WHERE TO REPORT HEALTH CARE FRAUD OF MICHIGAN'S OLDER ADULTS

Attorney General's Health Care Fraud Division Hotline:
1-800-24-ABUSE or 1-800-242-2873

FEDERAL TRADE COMMISSION

Call 1-877-987-3728 (Telemarketing, collection agencies, money scams, fraud)

Elder Investment Fraud and Financial Exploitation: Checklist for Lawyers



Screen all older clients about whether they are experiencing investment fraud and financial exploitation because:

- Victims often will not disclose their situation voluntarily but they will do so if asked;
- Establishing the practice of asking all clients reduces the stigma felt by the victim and helps you feel more comfortable about asking sensitive questions; and
- Questions that demonstrate an awareness of the issue indicate to clients that they can seek help from you in the future if they are not ready or able to do so now.

Before asking older clients about investment fraud and financial exploitation as part of their initial interview:

- Determine who your client is, if it is not obvious;
- Interview your client alone;
- Explain that you ask clients these questions because you need to know about all issues affecting their case to provide competent representation; and
- Explain your ethical and legal responsibilities and their potential implications if you practice in a state that mandates lawyers to report suspected financial exploitation to adult protective services.

Be aware of red flags in client history:

- Social isolation
- Bereavement
- Client's dependence on possible exploiter (for care, financial support, housing, companionship)
- Possible exploiter's dependence on client (for care, financial support, housing, companionship)
- Alcohol or drug abuse
- Depression or mental illness

National resources for additional information:

- Investor Protection Trust, www.investorprotection.org
- American Bar Association Commission on Law and Aging, www.americanbar.org/aging
- North American Securities Administrators Association, www.nasaa.org
- National Adult Protective Services Association (to find APS agencies), www.napsa-now.org
- Eldercare Locator (to find state and local aging and disability services), www.eldercare.gov



Possible Indicators	Reported by Client	Reported by Other	Observed by Lawyer
Accompaniment by a stranger, family member or other person especially if they seem to prevent self-expression or decision-making, or to coerce decisions or transactions			
Accusations that caregivers, family members, or others are taking or mismanaging assets			
Banking activity that is erratic, uncharacteristic, or inconsistent with ability			
Carrying financial documents around in bags all the time			
Changes in appearance, grooming, hygiene, mood, patterns of eye contact			
Changes in property titles, will, or other documents, particularly if the person is confused and/or the documents favor new acquaintances			
Concern or confusion about missing funds or property			
Confusion about executing or having executed a power of attorney			
Expressions of fear, such as cringing or withdrawing			
Fearful of eviction, institutionalization, or abandonment if money or other assets are not given to caregiver or others			
Frequently forgetting or claiming to have forgotten ATM card, checkbook, deposit slips, or other items needed for financial transactions			

Possible Indicators	Reported by Client	Reported by Other	Observed by Lawyer
Accompaniment by a stranger, family member or other person especially if they seem to prevent self-expression or decision-making, or to coerce decisions or transactions			
Accusations that caregivers, family members, or others are taking or mismanaging assets			
Banking activity that is erratic, uncharacteristic, or inconsistent with ability			
Carrying financial documents around in bags all the time			
Changes in appearance, grooming, hygiene, mood, patterns of eye contact			
Changes in property titles, will, or other documents, particularly if the person is confused and/or the documents favor new acquaintances			
Concern or confusion about missing funds or property			
Confusion about executing or having executed a power of attorney			
Expressions of fear, such as cringing or withdrawing			
Fearful of eviction, institutionalization, or abandonment if money or other assets are not given to caregiver or others			
Frequently forgetting or claiming to have forgotten ATM card, checkbook, deposit slips, or other items needed for financial transactions			

Screening Questions should be direct, but not conclusive. Asking clients if they have been exploited or defrauded is not useful if clients do not understand or relate their experiences to those terms. Start with general questions and then turn some of the possible indicators into questions. Delve deeper if appropriate.

- Who makes decisions about your money and property? How is that going?
- How do you get cash when you need it? Any problems with that?
- Does anyone have access to your bank account? How is that going?
- Have you noticed any suspicious or unusual items on your bills?
- Have you noticed money missing from your bank accounts or checks missing from your checkbook?
- Are any of your belongings missing from your home?
- Have you signed documents that you did not understand or want to sign because someone encouraged, forced, or deceived you?
- If you have a power of attorney, does your agent do things that you do not want your agent to do?
- Does your paid caregiver make you pay extra for things that the caregiver is supposed to do or get for you anyway?
- Did you want that person to come with you to this appointment? Did that person insist that you come see me? Did that person take you to see other lawyers before me?
- Do you live with anyone? When did that person move in? Why? Whose name is on the title (lease)? Does that person pay a share of your mortgage (rent) and household expenses?

Pocket Guide on Elder Investment Fraud and Financial Exploitation

Should I be concerned?

Red Flags in patient/client history:

- Social Isolation
- Bereavement
- Dependence on another to provide care
- Financially responsible for adult child or spouse
- Alcohol or drug abuse
- Depression or mental illness

Red Flags from clinical observations:

- Cognitive problems
- Fearful, emotionally labile, or distressed
- Suspicious, delusional
- Change in appearance, poor hygiene
- Accompanied by caregiver who is overly protective; dominates patient/client
- Change in ability to perform activities of daily living, including self-care, daily finances, medication management



Financial Concerns Checklist

Are you having any of the following common concerns?

- I have trouble paying bills because the bills are confusing to me.
- I don't feel confident making big financial decisions alone.
- I don't understand financial decisions that someone else is making for me.
- I give loans or gifts more than I can afford.
- My children or others are pressuring me to give them money.
- People are calling me or mailing me asking for money, lotteries.
- Someone is accessing my accounts or money seems to be disappearing.

The *Clinician's Pocket Guide* was created by Baylor College of Medicine's Texas Consortium Geriatric Education Center as part of the Elder Investment Fraud and Financial Exploitation program through a grant from the Investor Protection Trust (<http://www.investorprotection.org>) with the support and involvement of the Texas State Securities Board.

How do I ask about financial capacity?

Introductory question:

We find that some older adults worry about money; may I ask you a few questions about this?

Questions you can ask:

1. Who manages your money day to day? How is that going?
2. Do you run out of money at the end of the month?
3. Do you regret or worry about financial decisions you've recently made?
4. Have you given power of attorney to another person?
5. Do you have a will? Has anyone asked you to change it?

If answers raise suspicion, see the following four referral sections or probe for further details by using the Financial Concerns Checklist. This checklist may also be added to the patient/client information packet and completed during intake.

What types of referral may be needed?

1. Further social assessment, help with managing money, or other care.

Poor resource management or limited resources available — needs assistance with finances, meals, transportation, ADL's.

2. Legal advice or protection.

Needs assistance with financial planning or legal documentation.

3. Fraud and exploitation may have occurred.

In most states, reporting to APS is required by law. It can be reported orally and confidentially without civil or criminal liability

4. Further medical evaluation.

Needs assessment for cognitive, neurological, or other conditions.

Resources for social services and investor protection:

National Center on Elder Abuse

<http://www.ncea.aoa.gov>

United Way

<http://www.211.org>

National Association of Professional Geriatric Care Managers

<http://www.caremanager.org>

Case Management Society of America

<http://cmsa.org/>

North American Securities Administrators Association

<http://www.nasaa.org>

Investor Protection Trust

<http://www.investorprotection.org>

Resources for legal advice or protection:

National Academy of Elder Law Attorneys (NAELA)

<http://www.naela.com>

Resources for potential fraud or exploitation:

Adult Protective Services (APS)

1-800-252-5400

<http://www.apsnetwork.org/>

Resources for further medical evaluation:

Specialists such as a geriatrician, neurologist, psychiatrist, or psychologist may be warranted. The MiniCog (<http://geriatrics.uthscsa.edu/tools/MINICog.pdf>) and Financial Capacity Instruments (<http://www.neurology.org/cgi/content/abstract/73/12/928>) may be useful tools for use to screen for vulnerability to EIFEE.

**Adult Protective Services
855-444-3911**

**Attorney General's
Health Care Fraud Division
800-24-ABUSE
800-242-2873**



**NO EXCUSE
FOR ELDER ABUSE.**

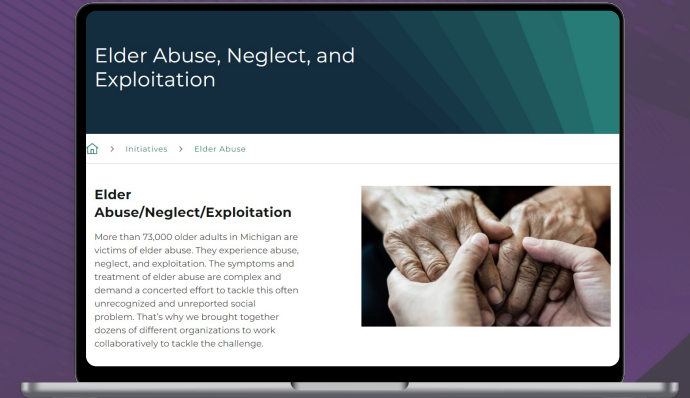
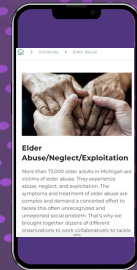


**REPORT ABUSE:
855-444-3911**



ELDER ABUSE TASK FORCE

MI.GOV/ELDERABUSE





ELDER ABUSE TASK FORCE

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