

Financial Elder Abuse

CANHR is a private, nonprofit 501(c)(3) organization dedicated to improving the quality of care and the quality of life for long term care consumers in California.

What is Financial Elder Abuse?

In California, elders are defined as persons 65 years and older.

Under California law, elder abuse can be both criminal and civil.

Criminal elder abuse occurs where any person who violates any provision of law proscribing theft, embezzlement, forgery, or fraud, or who violates Section 530.5 of the Penal Code— proscribing identity theft, with respect to the property or personal identifying information of an elder and who knows or reasonably should know that the victim is an elder, is punishable by imprisonment in a county jail not exceeding one year, or in the state prison for two, three, or four years, when the money, labor, goods, services, or real or personal property taken or obtained is of a value exceeding nine hundred fifty dollars (\$950); and by a fine not exceeding one thousand dollars (\$1,000), by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, when money, labor, goods, services, or real or personal property taken or obtained is of a value not exceeding nine hundred fifty dollars (\$950). (Penal Code Section 368)

Civil law defines civil financial elder abuse as when a person or entity does any of the following: (Welfare & Institutions Code Section 15610.07)

1. Takes, secretes, appropriates, obtains, or retains real or personal property of an elder for a wrongful use or with intent to defraud, or both.
2. Assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder for a wrongful use or with intent to defraud, or both.
3. Takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an by undue influence.

How to Recognize Financial Abuse

1. Transaction Abuse Indicators

- Inappropriate banking activity such as unusually large withdrawals or withdrawals from automated banking machines when the elder cannot get to the bank
- Signatures on checks that do not resemble the elder's signature
- Legal documents signed when the elder is physically incapable of writing
- Checks written out to "cash" being negotiated by the person having a caretaker responsibility
- Checks signed by the senior but filled out by someone else
- A surge of activity in accounts which have been static for years
- Expensive gifts made by the elder to a caretaker
- Checks or credit card transactions made out to direct mail or telemarketing promotions

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- Contributions going to newly formed religious or non-profit causes
 - Investments in time shares, real property, annuities or financial products
 - Large loans against equity in real property to finance investments

2. Possible Legal Document Abuse Indicators

- Power of attorney given by the elder when he or she lacks mental capacity
- A will being made when the elder is not mentally competent
- Elder taking his or her name off of property titles
- The elder adding the name of a caretaker onto real property or money accounts in exchange for commitments of continued care and or affection

3. Life-Style Change Indicators

- Lack of amenities, such as personal grooming items or appropriate clothing, when the elder can well afford it
- Under-deployment of the elder's existing resources that should be spent on housing, personal care, housing and maintenance
- Missing cash, jewelry and personal belongings

4. Personal Relationship Abuse Indicators

- Unusual interest by a family member in "conserving" the money being spent for the care of the elder
- Reluctance or refusal by "responsible party" to spend money on the elder's care
- Recent acquaintances or long-lost relatives expressing affection for a wealthy elder
- A caretaker taking an inappropriate level of interest in the elder's financial matters

Warnings to Elders about How to Avoid Financial Abuse

When it comes to your finances, deal only with people whom you trust and with companies or organizations that you know to be trustworthy! Never accept a verbal promise or assurance if money or property is involved. Always get everything in writing. Elders rarely benefit from mistakes or misunderstandings. Don't sign anything without carefully reading it and never feel pressured to sign before you are absolutely ready to live with your decision. Take your time! Remember, it took a lifetime of work and sacrifice to build up your estate and you can lose it all with one stroke of a pen.

WHO REPORTS? All concerned citizens and all mandated reporters.

WHO ARE MANDATED REPORTERS? Administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder; any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency; any person who has assumed full or intermittent responsibility for the care or custody of an elder, whether or not he or she receives compensation.

WHAT IS REPORTED? Mandated reporters MUST report actual or suspected physical abuse, abandonment, isolation, financial abuse, or neglect which is observed, evident, or described.

WHEN TO REPORT? Immediately or as soon as possible by telephone, followed by a written report within two (2) working days.

Failure to Report

Failure to report, impeding or inhibiting a report of, physical abuse, abandonment, abduction, isolation, financial abuse, or neglect of an elder is a misdemeanor, punishable by six months in the county jail and a fine of one thousand dollars (\$1,000).

Any mandated reporter who willfully fails to report physical abuse, abandonment, abduction, isolation, financial abuse, or neglect of an elder where that abuse results in death or great bodily injury, shall be punished by not more than one year in a county jail and a fine of five thousand dollars (\$5,000).

Anyone may report suspected abuse.

WHERE to Report: *Remember ... Anyone may report suspected abuse.*

If the abuse occurs in a community setting, the report goes to Law Enforcement “911” or Adult Protective Services (APS).

If the abuse occurs in a care facility, the report goes to Law Enforcement “911” or the Ombudsman Program.

To locate your local APS office visit: <http://www.dss.cahwnet.gov/pdf/apscolist.pdf>

To locate your local Ombudsman office visit: http://www.aging.ca.gov/programs/ombudsman_contacts.asp

If you do not have access to the internet, call the Statewide Elder Services locator number at (800) 510-2020 for your county’s APS or for your local Ombudsman phone numbers.

Mandated Reports: Form SOC 341 must be completed and signed by the mandated reporter.