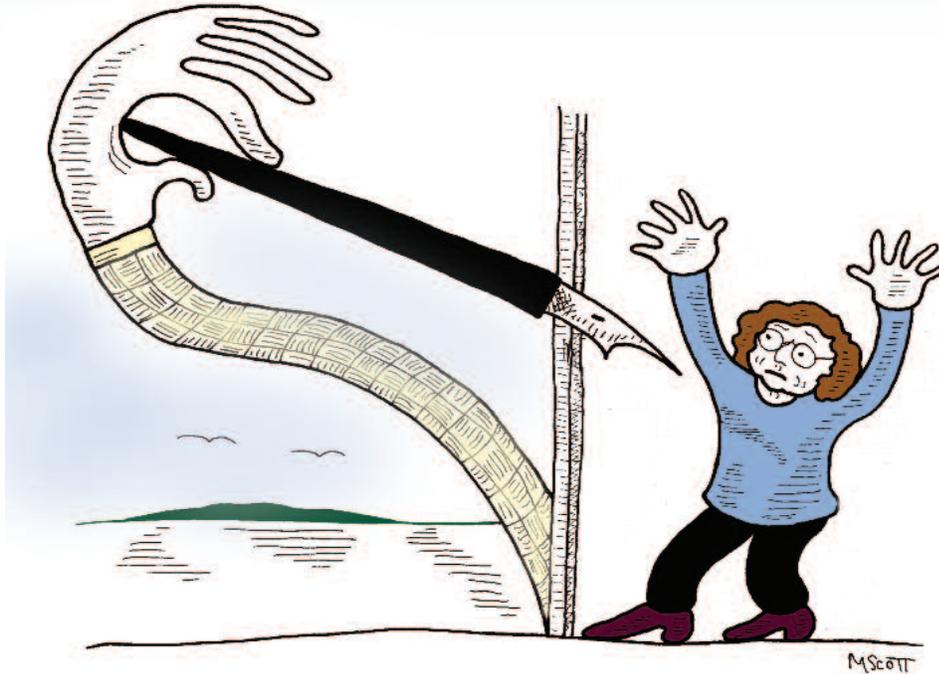


WISER/NAPSA *Just the Facts* SENIOR FINANCIAL ABUSE: POWER OF ATTORNEY ABUSE



Introduction

Senior financial abuse scams are a multi-billion dollar "industry." Studies estimate the annual financial loss nationwide to be around \$2.9 billion¹. In a recent New York State study, estimated annual losses for seniors in a subsample of New York State districts fell between \$352 million to \$1.5 billion, suggesting the national total may be substantially higher than previously estimated.² Although it can be difficult to measure the exact extent of the total financial loss, we know that these crimes are on the rise and continue to deprive seniors of their savings and assets. These figures do not account for the tens of billions spent on indirect costs for medical care, social services, and legal costs, or for the pain and suffering of the victims. Victims are not only older people, but also their families and all who provide services and financial assistance.

All seniors, regardless of income, are at risk. Financial abuse may be perpetrated by anyone—a professional con artist, a paid caregiver, a stranger or casual acquaintance, or even a son, daughter, or other family member.

The following factors contribute to the prevalence of senior financial abuse:

- ▣ A high percentage of seniors live alone and may be more vulnerable to scams.
- ▣ Seniors may be trusting and readily believe the sales "pitches" they hear.
- ▣ The population of seniors is increasing, providing a continuous source of wealth for financial abusers.

Education and awareness are two key strategies to preventing and responding to elder financial abuse. This fact sheet looks at power of attorney abuse and provides resources to keep seniors from falling victim to these financial traps.

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Power of Attorney Abuse

Granting power of attorney (POA) to someone is a significant step. Having power of attorney over someone means having the right to make legal decisions for that person. Some people can use this power maliciously, causing a senior to lose her home, assets, and other property.

In the hands of a trustworthy person, POA is an important tool to manage the finances of a senior who is temporarily or permanently unable to handle his or her own affairs.

The Different Types of Power of Attorney

1. General

Unlimited in scope or duration, and permits the agent to act as the person's legal representative until it is revoked.

2. Special or Limited

Gives the agent power over specific situations when the person is unavailable or unable to take action because of other commitments or health reasons.

3. Durable

Remains in effect when the person becomes incapacitated.

4. Springing

Does not become effective until a condition stated in the document is met.

How You Can Help Stop Power of Attorney Abuse

To make sure someone who has or is seeking to gain power of attorney does not victimize the senior, conduct a thorough investigation.

- ☒ Determine the relationship between the agent and the senior. Is the agent a stranger to the senior? Close relative? Friend?



- ☒ Interview the senior. Are there signs of confusion or mental incapacity?
- ☒ Review financial records for transactions that benefit the agent rather than the senior.

If there are any signs of wrongdoing, immediately file a report with the police department where the crime was located. Contact the guardian or conservator to revoke the POA. And contact the county attorney who may be able to both prosecute the agent and sue for restitution.

WHAT IS POWER OF ATTORNEY?

Power of Attorney (POA) is a legal document that gives authority for one person to act for another person in some or all legal and financial matters.

1 The MetLife Mature Market Institute. *The MetLife Study of Elder Financial Abuse*. June 2011.

2 New York State Office of Children and Family Service. *The New York State Cost of Financial Exploitation Study* June 15, 2016

Signs of Power of Attorney Abuse

There are different indicators of Power of Attorney abuse. The signs can come from the senior, the agent, or from the senior's home.

General Things To Look Out For

- ☒ Documents stating the onset of a senior's incapacity prior to the signing of a POA
- ☒ Unusual or erratic banking activity
- ☒ Lack of amenities even though the senior could afford them

Red Flags: Power of Attorney Agent

- ☒ The agent is vague or evasive about financial arrangements
- ☒ Purchases made by the agent are not on the senior's behalf
- ☒ The agent's decisions do not seem to be in the senior's best interests

Red Flags: Senior

- ☒ The senior and/or residence is unkempt even though care was arranged
- ☒ The senior is forced to sell property
- ☒ The senior is placed in a facility well below their ability to pay



ADDITIONAL HELPFUL RESOURCES

Many public agencies are involved in preventing and detecting senior abuse and in prosecuting those who commit it. Many organizations are also dedicated to educating seniors on these topics:

- ✿ **National Center on Elder Abuse** www.ncea.acl.gov
Provides state resources: helplines, hotlines and information.
- ✿ **National Academy of Elder Law Attorneys** www.naela.org
Find attorneys specializing in Elder and Special Needs law.
- ✿ **Federal Trade Commission** www.ftc.gov
Protects consumers from unfair, deceptive and fraudulent business practices.
- ✿ **Federal Crimes Enforcement Network** www.stopfraud.gov
Financial Fraud Enforcement Task Force Investigates suspected financial fraud
- ✿ **American Bar Association Commission on Law and Aging** www.abanet.org
Lists statewide resources to help older adults with legal issues
- ✿ **The Securities and Exchange Commission** www.investor.gov
Investigates securities frauds
- ✿ **U.S. Administration on Aging** www.eldercare.gov
In partnership with the National Association of Area Agencies on Aging,
operates the Eldercare Locator to help individuals find local caregiving services and resources. **1-800-677-1116**

ADMINISTRATION ON AGING RESOURCE CENTERS partner to provide valuable information to seniors, caregivers, families and communities across the nation.

National Resource Center on Women and Retirement Planning



The Women's Institute for a Secure Retirement (WISER), in partnership with the Administration on Aging, operates the National Resource Center on Women and Retirement Planning. The Center provides user-friendly financial education and retirement planning tools for low-income women, women of color, and women with limited English speaking proficiency. WISER's mission is to educate women about the issues that affect their long-term financial security and highlight the importance of taking an active role in planning for retirement. WISER offers tools and resources on the topics of Social Security, retirement plans, savings and investments, banking, caregiving, divorce and widowhood, and long-term care.

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Washington, DC 20036
(202) 393-5452
www.wiserwomen.org



920 S. Spring Street
Suite 1200
Springfield, IL 62704
(217) 523-4431
www.napsa-now.org

National Institute
on Elder Financial Exploitation

National Adult Protective Services Resource Center

NAPSA, in partnership with the Administration for Community Living, operates the National Adult Protective Services Resource Center (NAPSRC). The Resource Center serves professionals from Adult Protective Services (APS) agencies across the United States. The goal of the Resource Center is to provide federal, state and local APS agencies with current, accurate, research based information and training, along with technical assistance to improve their capacity to provide effective protective services to vulnerable and elder adult abuse victims.

NAPSA also operates the National Institute on Elder Financial Exploitation (NIEFE), the first national clearinghouse to focus on the complex issues of elder financial abuse.