

WISER/NAPSA: *Just The Facts*
Senior Financial Abuse

Power of Attorney Abuse



Introduction

Senior financial abuse scams are a multi-billion dollar "industry." The victims of these scams are not only older people, but also their families, their financial institutions, taxpayers and all who provide services and financial assistance to the victims. Many consider these financial scams as the crime of the 21st Century. According to a 2011 study by the MetLife Mature Market Institute, the estimated annual financial loss from Senior financial abuse was 2.9 billion dollars, based just on the cases which made it into the media. The study does not include pain and suffering, nor the tens of billions spent on indirect costs for medical care, social services, legal costs, or losses in income and assets.

Older adults control the majority of wealth in the country, but all seniors regardless of income are at risk. Abuse may be perpetuated by anyone - a professional con artist, paid caregiver, 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 more trusting, believing the "pitches" they hear, and may have trouble spotting fraud.
- Seniors have a relatively high net worth.
- The population of seniors is increasing, providing a continuous source of wealth for financial abusers.

We can help to eliminate this abuse by finding the most effective ways to prevent and respond to the problem. Education and awareness are two key strategies. This fact sheet looks at Power of Attorney abuse, and provides resources to keep seniors from falling victim to this financial trap.

Power of Attorney Abuse

Granting the 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 assets, property and sometimes their lives.

What Is Power of Attorney?

Power of attorney (POA) is a legal document used to allow someone else to act as a legal agent on someone else's behalf.

Attorneys commonly recommend it as a tool for planning for incapacity because a trusted person can stand in for an individual who can no longer make or communicate financial decisions.

The Different Types of Power of Attorney

1. General

Gives broad powers to the person or organization appointed as an Agent.

2. Special or Limited

Gives the Agent power over specific situations when the senior is unavailable or unable to do so because of other commitments or health reasons.

3. Durable

Continues to be in effect when the senior becomes incompetent.

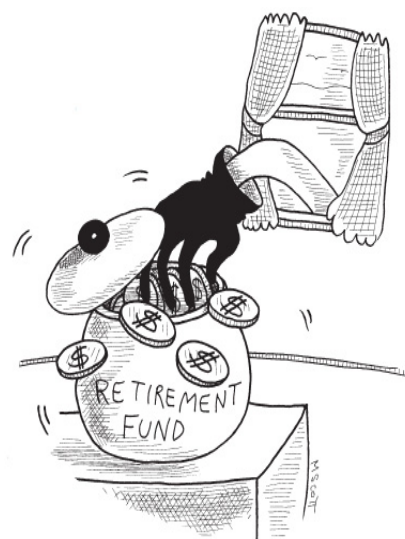
There are two types:

Immediate Power

Gives the agent power right after the document is signed.

Springing Durable Power

Must have two physicians certify that the senior is mentally incompetent and unable to legally handle his or her affairs before the agent is granted power.



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 call Adult Protective Services (APS) and consider filing a report with the local police department or the police department where the crime occurred. Also, contact the guardian or conservator to revoke the POA as well as the county attorney who may be able to both prosecute the agent and sue for restitution.

How Can I Recognize Power of Attorney Abuse?

There are different indicators to look for to find evidence of power of attorney abuse. The signs can either come from the senior, the agent or general signs from 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
- The agent uses the older person's funds for inappropriate "gifts."

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.aoa.gov
State Resources: Helplines, Hotline and Information
- **National Academy of Elder Law Attorneys** www.naela.org
Non-profit association for attorneys specializing in elder 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 (or 1-800-677-1116)
In partnership with the National Association of Area Agencies, AoA operates the Elder Care Locator to help with finding trustworthy local support resources for seniors .

Administration on Aging Resource Centers partner to provide valuable information to seniors, caregivers, families and communities across the nation.



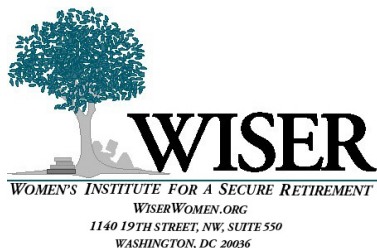
National Education and Resource Center on Women and Retirement

The Women's Institute for a Secure Retirement (WISER), in partnership with the Administration on Aging, operates the National Education and Resource Center on Women and Retirement Planning to provide 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 inform women about the issues that affect their long-term financial security and to stress the importance of taking an active role in planning for their retirement. The Center specially tailors educational financial tools and information to meet the needs of the target population. Through the Center's one-stop-gateway, women have access to comprehensive, easily understood information that allows them opportunities to plan for income during retirement and to plan for long term care as they need it.



National Adult Protective Services Resource Center

NAPSA, in partnership with the Administration on Aging, has established the first ever 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.



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