

FINANCIAL EXPLOITATION OF OLDER ADULTS:
A Hidden Burden on New York's Taxpayers

Annually, as many as 500,000 people age 60 and older in the United States are victims of elder abuse and neglect, with 40,000 victims residing in New York State.

Elder abuse takes many forms: physical battering, neglect by caregivers to provide for basic needs such as food or medicine, emotional or psychological mistreatment. One of the most insidious forms of abuse perpetrated against older adults is financial exploitation.

As in other forms of abuse, financial exploitation cuts across all economic and ethnic boundaries. Locally, exploitation is the most prevalent type of abuse. It was present in 46% of cases handled by Lifespan in 2006.

Frail elders who are isolated and dependent on others for care or who may be experiencing confusion are especially vulnerable. In some cases, unscrupulous home contractors or telemarketers take advantage of an elder's vulnerability to convince the victim to transfer funds. In other cases, a financial adviser or family member entrusted with Power of Attorney takes advantage of an older adult's cognitive confusion to line their own pockets rather than use assets for the needs of the elder.

In each case an injustice has occurred that deprived an older adult of resources they have been saving all their lives. Financial exploitation is a serious form of elder abuse that takes away dignity, independence and ultimately resources needed to stay independent in old age.

One aspect of financial exploitation of the elderly that often escapes attention is the impact of such activity on the public treasury. Older adults made destitute by exploitation have no alternative but to turn to public aid when they need care. Resources that had been saved up "for a rainy day" but have been siphoned off are no longer available to pay for home care or a nursing home bed.

In a case investigated by Lifespan's Elder Abuse Prevention Program, family members of an 80 year old woman with dementia depleted her life savings and the equity in her home. When she required nursing home placement, she had to apply for Medicaid to cover the cost of care. She died with just \$10 left in her account. The Department of Social Services paid for her public burial expenses.

A review of newspaper headlines from across the state shows that this scenario is by no means unique. In another case reported in the New York City media, an 85 year old Queens man handed over \$250,000 and his Power of Attorney to a woman after meeting her outside a supermarket. The woman also allegedly mortgaged his home for \$550,000 without his consent.

The New York State Coalition on Elder Abuse was established in 2004 to implement recommendations that emerged from an Elder Abuse Summit held in Albany that year. One hundred specialists in elder protection voted to make revision of laws, especially the General Obligations law regulating Power of Attorney, the number one recommendation for improving the community's response to elder abuse in New York State.

POA is a useful legal tool that allows an individual to designate another party as fiduciary to manage funds and to transact business on his or her behalf. The laws in New York, however, lag behind many other states in specifying the limits of authority of the fiduciary and in ensuring accountability and imposing penalties when trust is broken. The New York State Law Revision Commission has been working on proposed revisions to the law for over five years. Bills have been introduced in the Senate and the Assembly to finally make long overdue changes in the POA law. One very simple change would clarify the authority of the fiduciary to make gifts to himself/herself or others.

As New York observes the second annual World Elder Abuse Awareness Day tomorrow, there is no better way for citizens to participate in the protection of older New Yorkers than to urge members of the legislature to pass this POA reform legislation this year.

For further information on the NYS Coalition on Elder Abuse, please go to www.lifespan-roch.org.

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