

Keeping Elders Safe: An Overview of Elder Abuse and Legal Remedies

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**LEGAL ASSISTANCE
FOR SENIORS**

Why Is This Important?

Elder Abuse is widespread

People from all ethnic backgrounds, all income levels and all genders can be victims of elder abuse.

Elder Abuse is still a hidden problem

Researchers say that only 1 out of every 5 elder abuse cases is reported.

Who are Abusers?

Often an adult child, grandchild, relative or caregiver.

Abuser may:

- Be stressed out with responsibilities of caring for victim, but often financially dependent on victim
- Have a drug or alcohol problem or be mentally ill
- Blame the victim for the abuser's inability to have a successful or fulfilling life
- Have health issues of their own
- Have a history of abuse with the elder or another

What is Elder Abuse?

Elder Abuse can be:

- Financial
- Physical
- Sexual
- Emotional/Psychological
- Neglect

Financial Abuse

As defined by the Older Americans Act of 2006, “financial exploitation is the fraudulent or otherwise illegal, unauthorized or improper actions by a caregiver, fiduciary or other individual in which another uses the resources of an older person for personal profit or gain; or actions that result in depriving an older person of the benefits, resources, belongings or assets to which they are entitled.”

*Researchers say that **only 1 in 44** cases of Financial Elder Abuse get reported!

Financial Abuse

Examples:

- Various forms of Scams and Frauds
- Misuse of Power of Attorney for personal gain
- Use of coercion or deception to make elder transfer assets
- Misuse of accounts or credit cards
- Stealing cash and/or valuables

Financial Abuse

Possible Signs of Financial Abuse:

- Apparent change in elder's signature style
- Unusual or inappropriate bank activity
- Power of attorney given after elder no longer has clarity of mind or sudden change in attorney-in-fact
- New acquaintances expressing affection for elder with assets
- Missing personal belongings such as jewelry, art, silverware

Financial Abuse

Possible Signs of Financial Abuse Cont'd:

- Deliberate isolation of the elder by caregiver
- Mail is missing or intercepted
- Bills, rent or mortgage go unpaid
- New will drawn up naming recent acquaintances
- Transferring all assets to caregiver in exchange for promise of lifelong care

Financial Abuse

Tips for Avoiding Financial Abuse:

- Ask questions!
- Choose people you trust when giving someone power over your financial decisions
- Get legal advice about planning for incapacity
- If you have questions about legal or financial documents, get advice before you sign
- Give yourself time to think before making a financial decision; be wary if someone is pressuring you for immediate action

Physical Abuse

Definition according to the CDC: The intentional use of physical force that results in acute or chronic illness, bodily injury, physical pain, functional impairment, distress, or death.

Physical Abuse

Examples:

- Hitting, beating, pushing, shoving, kicking, pinching, etc.
- Seriously trying to cause physical harm
- Using or attempting to use a weapon
- Unreasonably restraining
- Prolonged withholding of food and nourishment

Physical Abuse

Possible Signs of Physical Abuse:

- Physical injuries that are not properly cared for
- Cuts, bruises, burns, discoloration of the skin
- Dehydration or malnutrition without an illness-related cause
- Depression, fear, anger, hysteria, withdrawal or unexplained weight loss
- Soiled clothing or bed

Physical Abuse

Tips for Avoiding Physical Abuse:

- Be cautious about whom you let move in with you
- Keep in contact with friends, neighbors and health care providers
- Invite friends to visit you at home on a regular basis, especially if a caregiver lives with you or is abusing you in your home.

*Report if it happens

Elder Sexual Abuse

Special considerations for seniors:

- Capacity: some seniors may not have the capacity to consent to sexual activity or may be vulnerable to undue influence
- Reporting: senior victims of sexual abuse may feel uncomfortable talking about the abuse and therefore might not get support
- Gender Stigma: victims and perpetrators can be any gender
- Hypersexuality and Alzheimer's/Dementia: cognitive decline may lead to inappropriate behaviors, increasing vulnerability to sexual abuse, either as a victim or perpetrator.

Emotional Abuse

Definition: Psychological abuse is the willful infliction of mental or emotional anguish by threat, humiliation, or other verbal or nonverbal conduct.

*National Committee for the Prevention of Elder Abuse

Emotional Abuse

Examples:

- Yelling, abusive phrases, and insults
- Threatening to “put away” an elder who is still clear of mind
- Intentionally isolating an elder from friends and family

Emotional Abuse

Possible Signs of Emotional Abuse:

- Hesitation to talk openly or talk about caregiver
- Implausible stories
- Confusion, disorientation, denial, agitation, depression
- Exaggerated fear or anger
- Withdrawal, helplessness
- Elder not permitted to meet alone with others

Neglect

Definition: The National Center on Elder Abuse defines elder abuse as “intentional or neglectful acts by a caregiver or ‘trusted’ individual that lead to, or may lead to, harm of a vulnerable elder.”

Neglect

Examples:

- Failure to provide food or medication
- Failure to take elder to necessary medical appointments
- Failure to provide physical aids, such as glasses and hearing aids, or personal hygiene
- Caretaker lets living environment become unsafe

Neglect

Possible Signs of Neglect:

- Health conditions caused by failure of caregiver to provide medical care
- Living in filthy or dangerous conditions
- Isolation, malnutrition, dehydration

Emotional Abuse and Neglect

Tips for Avoiding Emotional Abuse and Neglect:

- Participate in community activities for as long as you are able
- Keep regular medical, dental, hairdresser and other personal appointments
- Develop a “buddy system” with a friend outside the home and have weekly contact
- Explore alternative sources of care and support
- Ask for help when you need it

Legal Remedies for Elder Abuse

Purpose of Legal Remedies:

- To protect elders
- To remove abuser/abusive caregivers
- To recover damages from abusers
- To criminally prosecute and punish abusers

Remedies: Financial Abuse

- Revocation of Durable Power of Attorney for Finance
- Elder Abuse and Dependent Adult Civil Protection Act (Elder Abuse Restraining Order & Civil Damages)
- Petition to Compel Accounting
- Petition for Probate Court Conservatorship
- Elder Abuse Criminal Statute

Remedies: Physical, Emotional, & Sexual Abuse or Neglect

- Civil Restraining Orders:
 - Order After Hearing Restraining Elder or Dependent Adult Abuse
 - Protective order can be granted for up to five years
 - Orders automatically entered into the law enforcement system
- Criminal Protective Orders:
 - Emergency Protective Orders – requested by the police/ law enforcement on behalf of the elder. Last 5-7 days
 - Criminal Protective Orders – requested by the District Attorney on behalf of a senior who is a victim of a crime or witness to a crime
- Criminal Prosecution, Victim-Witness Services

If You Suspect Elder Abuse

- Adult Protective Services:
510-577-3500; 866-225-5277 (24-hour hotline).
Report is confidential. Trained social worker will investigate
- Ombudsman for Long Term Care: 510-638-6878.
Investigates abuse or neglect in nursing homes and board and care facilities
- District Attorney's Office: 510-272-6222.
Investigates and prosecutes criminal abuse of elders
- Legal Assistance for Seniors: 510-832-3040.
Free legal services for Alameda County residents 60 and over, including elder abuse (65+ or dependent adults 18-64).

Legal Assistance For Seniors

- ❖ You Can Reach Us At:
(510) 832-3040
- ❖ We Are Located At:
333 Hegenberger Rd,
Suite 850
Oakland, CA 94621
- ❖ Our Website Is:
www.lashicap.org

LAS-HICAP is a non-profit organization. Please consider making a donation so that we may continue to offer our legal and counseling services to seniors in Alameda county. You can talk to the presenter or go to our website for more information about how to make a tax-deductible donation.