



**Elder Financial Abuse:  
Identifying and Combating Financial  
Exploitation**

**(For Financial Institutions)**

# The Real Impact of Financial Exploitation

- Journal of American Medical Association (JAMA) study shows that elder victims of financial abuse have a 3 times higher mortality rate than non-victims
- Older victims will not recover financially
- Victims are **4 times** more likely to go into a nursing home and **9%** of financial exploitation victims turn to Medicaid as a direct result of exploitation (National Adult Protective Services Association (NAPSA), 2011)

# The Real Impact of Financial Exploitation (cont'd)

- Cannot afford medicine, utilities, food
- Must rely on Medicaid to cover costs
- Unable to choose end of life care

**Life savings are gone**

# 430,684

- The number of 2010 social security beneficiaries aged 65 or older in Iowa
- This group collected \$495,303,000 total monthly social security benefits

(Older Iowans: 2012, State Data Center of Iowa and the Iowa Department on Aging, May 2012)

# “Under the Radar: New York State Elder Abuse Prevalence Study” 2010

- Financial exploitation may be the most common form of elder abuse
- 44x cases go unreported vs. reported

# Elder Abuse vs. Dependent Adult Abuse

- **Elder Abuse – Older Americans’ Act**
  - Older individual (aged 60 or older)
  - Abuse, neglect, or exploitation
  - Federal mandate placed on Dept. on Aging
- **Dependent Adult Abuse (DAA) – Iowa Code 235B**
  - Dependent adult (aged 18 or older)
  - Caretaker
  - Specific allegation of abuse per 235B
  - Iowa’s protective services implemented by the Department of Human Services (DHS)

# Dependent Adult Abuse

## Criteria for Referral

- Dependent adult
- Allegation of abuse by caretaker
- Allegation of abuse as defined by Iowa Code 235B

# Iowa Code 235B - Dependent Adult

A person eighteen or older who is unable to protect the person's own interests **or** unable to adequately perform **or** obtain services necessary to meet essential human needs, **as a result of a physical **or** mental condition which requires assistance from another.** Iowa Code §235B.2(4)

# Iowa Code 235B - Caretaker

A related or non-related person who has the **responsibility for the protection, care, or custody** of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by order of the court. Iowa Code §235B.2(1)

# Iowa Code 235B

## Financial Exploitation

The act or process of taking unfair advantage of a dependent adult or the adult's physical or financial resources for one's own personal or pecuniary profit, without the informed consent of the dependent adult, including theft, by the use of **UNDUE INFLUENCE, HARASSMENT, DURESS, DECEPTION, FALSE REPRESENTATION, or FALSE PRETENSES.**

Iowa Code §235B.2(5)(a)(1)(c)

# Common Examples

- Taking or misusing a person's property, money, social security or pension check, food stamps, medication, etc.
- Abuse of fiduciary powers—Power of Attorney Document, guardian, conservator
- Identity theft
- Scams
- Coercing to sign or alter legal documents (wills, land, resources) or forging signature

# Common Examples (cont'd)

- “Borrowing” money and not paying it back
- Denying services or medical care to conserve funds
- Giving away or selling the person’s possessions without permission
- Misusing ATM or credit cards, or using them without permission
- Passing out the person’s money to family or friends without permission

# WARNING SIGNS

- Elder is unusually quiet, isn't allowed to speak or is interrupted in attempting to speak or answer questions
- Elder isn't acting like him or herself—seems uncomfortable
- Elder's answers to questions seem unreasonable or unlikely
- If by telephone, elder is being prompted in background

# WARNING SIGNS (cont'd)

- Unusual activity or level of activity in accounts
- Movement of accounts between banks
- Unusual patterns of withdrawal amounts
- Opening of account with immediate withdrawals
- Use of ATM or online banking when inconsistent with elder's history or nature
- Sudden or frequent overdrafts inconsistent with history
- Unusual credit or loan activity

# WARNINGS SIGNS (cont'd)

- Elder is concerned or confused about missing money doesn't remember financial transactions or signing paperwork
- Stable, conservative-type accounts or investments are closed
- Regular monthly-type expenses are no longer being paid out of account
- Suspicious changes to wills, POA's, trusts, beneficiaries

# WARNINGS SIGNS (cont'd)

- Signature appears forged
- Checks signed by elder but not written by elder
- Elder appears to be neglected or doesn't seem to have money
- Elder is accompanied by a stranger, friend family member and is withdrawing unusual amounts of cash or making inquiries that are unusual for that person
- Elder appears uncomfortable making transactions

# WARNINGS SIGNS (cont'd)

- Elder is unusually quiet, isn't allowed to speak or is interrupted in attempting to speak or answer questions
- Individual with elder appears overly interested in the elder's finances
- Elder isn't acting like him or herself—seems uncomfortable
- Elder's answers to questions seem unreasonable or unlikely

# Why are *Older* Iowans More Susceptible?

- **Trust** in family, friends, professionals, care providers
- Expected to provide **financial authority** to family members or other trusted persons
- Fear of **losing independence**
- Reluctant to **report** family members

# Who are the Perpetrators?

- **Family members**
- **Caregivers**
- **Neighbors**
- **Friends**
- Guardians,  
conservators,
- **Attorneys-in-Fact**  
(Power of Attorney  
Documents)
- Strangers
- Clergy
- Companions
- Telemarketers
- Financial planners
- Lawyers

# Common Characteristics of Perpetrators

- Persons in positions of trust—children, family members, caretakers, professionals
- A **relationship of trust** is the core of financial exploitation
- **Opportunists**
- Insulated—ability to target, stalk, and groom victims without raising much suspicion

# Tactics of Financial Exploiters

- Use joint bank accounts
- Deed/title transfers
- Use power of attorney documents
- Mortgage on victim's home
- Use power as conservator
- Theft of identity—credit cards, medical cards, SSN

# The Art of Exploitation

Suspect's tactics are designed to ensure that the victim does not know what is going on and feels he or she can do nothing about it!

- ✓ Isolate from others and from information
- ✓ Keep unaware
- ✓ Create lack of faith in own abilities
- ✓ Create dependency
- ✓ Create fear

# Fiduciary ≠ License to Steal

- **No** fiduciary relationship authorizes a person to financially exploit the individual being served—all are relationships of service to the ward or principal
- It is **NOT** a license to steal!

# Who is at Risk?

- **ANYONE AND EVERYONE**
- Those who are frail, ill, disabled, mentally impaired, depressed
- Those who are dependent on another due to physical or emotional limitations
- Those who need assistance with their finances or who have never managed the finances

# Increased Vulnerability

- Lonely
- Unsophisticated as to financial matters
- Ill or cognitively impaired
- Adverse life conditions
- Fatigued, exhausted, distracted
- Frightened
- Dependent

# Undue Influence--Basics

- Power and control
- Exploit trust, dependency and fear of another
- Purpose: *deceptively* gain decision making control

# Act Freely and Voluntarily

- “Undue influence” is the substitution of one person’s will for the true desires of another
- Victims of undue influence cannot act freely and voluntarily—different than competency
- *Apparent* consent, not *actual* consent

# Knowledge of True Nature of Act

Suspect's tactics are designed to ensure that the victim does not know what is going on and feels he or she can do nothing about it!

- ✓ Isolate from others and from information
- ✓ Keep unaware
- ✓ Create lack of faith in own abilities
- ✓ Create dependency
- ✓ Create fear

# Types of Fiduciaries

- Personal Representatives
  - Attorney-in-fact (power of attorney)
  - Representative payee
- Executors—under a will
- Administrator—intestate estate
- Guardian—custody of the person
- Conservator—custody of property/finances
- Trustee—administer a trust

# Can I Report Suspected Financial Exploitation?

- An employee of a financial institution **may** report suspected financial exploitation of a dependent adult to DHS per Iowa Code § 235B.3(4)
- Iowa law does not currently identify financial institution employees as mandatory reporters
- Financial Institution's policy

# Immunity From Liability

## **Iowa Code § 235B.3 provides:**

A person participating in good faith in reporting or cooperating with or assisting the department in evaluating a case of dependent adult abuse **has immunity from liability, civil or criminal, which might otherwise be incurred.**

# SUSPICIOUS ACTIVITY REPORTING (SARs)

- Reports: Every bank shall file with the Treasury Department, to the extent and in the manner required by this section, a report of any suspicious transaction relevant to a possible violation of law or regulation. A bank may also file with the Treasury Department by using the Suspicious Activity Report specified in paragraph (b)(1) of this section or otherwise, a report of any suspicious transaction that it believes is relevant to the possible violation of any law or regulation but whose reporting is not required by this section. 31 CFR § 1020.320(a)

# SARS (cont'd)

- Confidentiality: A SAR, and any information that would reveal the existence of a SAR, **are confidential and shall not be disclosed** except as authorized in this paragraph (e). For purposes of this paragraph (e) only, a SAR shall include any suspicious activity report filed with FinCEN pursuant to any regulation in this chapter. 31 CFR § 1020.320(e)

# Right to Financial Privacy Act

(RFPA)

- Provides that in most circumstances, a customer must be given prior notice and opportunity to challenge the government's action in court BEFORE the government can obtain (via subpoena) customer information from a bank. 12 U.S.C. § 3402
- The limitations of the RFPA **apply only to the federal government** and place no such restrictions on the actions of state or local authorities in obtaining financial records or re: SARs

# Gramm-Leach-Bliley Act

- Sec 502(e) contains several exemptions that permit the disclosure of “nonpublic personal information” to “nonaffiliated third parties” (which includes government officials) without prior notice to the customer and an opportunity to opt out.
- Subsection (e)(3)(B) permits disclosure “to protect against or prevent actual or potential fraud, unauthorized transactions, claims, or other liability

# Resource

American Bar Association: Can Bank Tellers Tell?  
– Legal Issues Relating to Banks Reporting  
Financial Abuse of the Elderly

[www.americanbar.org/groups/law\\_aging/resources/elder\\_abuse.html](http://www.americanbar.org/groups/law_aging/resources/elder_abuse.html)

# What to Do?

- Follow your financial institution's policy
- Contact your supervisor
- Try to gather information to the extent you feel comfortable—do not be afraid or embarrassed to ask questions or to warn the customer
- Check authorization and documentation and make copies

# What to Do? (cont'd)

- Explain that a supervisor must review the transaction
- Attempt to get the elder alone to speak, if possible
- Get photographic evidence, if possible
- Notify security if you are concerned about your customer's safety
- Contact law enforcement

# Strategies of Protection

- Emphasize your bank's commitment to protecting its customers
- Develop a protocol for reporting suspected exploitation and follow it
- Encourage the use of direct deposit and other banking methods that make it difficult for exploiters to easily reach funds

# Strategies of Protection (cont'd)

- Talk to your customers and educate them about exploitation; **make your bank a SAFE HAVEN for victims and a KNOWN TRAP for perpetrators**
- If you are familiar with family members or friends (non-perpetrating), consider talking to them about changes in ability or personality
- Call local law enforcement if you have concerns—your information may be the missing piece

# Communicating with a Suspected Victim: Employee Awareness

- Respect the fact that the person may be frightened, embarrassed, and afraid and **may have very good reason for it**—respect, respect, respect!
- Be patient and understand that the elder likely will not share anything with you at first—**don't act like a perpetrator yourself**
- Be aware of **physical limitations** like hearing loss
- Make your questions **simple**; the person may have little experience with financial matters and may be too frightened to process it

# Communicating with a Suspected Victim: Employee Awareness

- Give the older adult plenty of time to answer **without interruption**
- **Listen** to the response for what is said and for what is not said
- Follow the older person's lead—go with **what makes them comfortable**
- Make sure **you fully answer the questions asked to you**; if you don't know the answer, commit to getting it

# Communicating with a Suspected Victim: Employee Awareness (cont'd)

- Try not to show **frustration**—you want to help, and it's only natural
- If you feel you aren't getting anywhere and you remain concerned, **don't give up** on the person; stick with your gut and try a different route
- **Understand** the elder is likely frightened, ashamed, fearful and confused

# Communicating with a Suspected Victim: Employee Awareness (cont'd)

- Understand and **acknowledge** the elder's reluctance to reveal abuse, neglect or exploitation or to accuse a person in a position of trust
- **Empathize** and **validate** their feelings
- Avoid tying your concern to the customer being "elderly" or "disabled"—labels are unnecessary

# Communicating with a Suspected Victim: Employee Awareness (cont'd)

- If at all possible, **never force** the person to speak in the presence of the suspected exploiter
- Have the conversation with the person in a comfortable, safe, quiet environment—honor **privacy**
- **Allow the elder to speak! Insist she be allowed to speak!**

# Who to Call

- **Suspected Dependent Adult Abuse**  
Dept. of Human Services: 800/362-2178
- **Suspected Crime**  
Local Law Enforcement—police or sheriff
- **Consumer Fraud**  
Attorney General's Office, Consumer Protection Division  
515/281-5926
- **For Information on Elder Abuse, Neglect, Financial Exploitation**  
Iowa Dept. on Aging 800-532-3213

# Who to Call (continued)

- **Suspected Medicaid Fraud & Abuse:**  
Medicaid Fraud Control Unit, Dept. of Inspections and Appeals  
515/281-5717 or 515/281-7086
- **Investment Fraud Prevention and Investigations:**  
Iowa Insurance Division: 877/955-1212; [www.iid.state.ia.us](http://www.iid.state.ia.us)

# Reporting Misuse of a Federal Benefit

- Social Security Administration: 800/772-1213
- Dept. of Veteran's Affairs: 800/827-1000
- Railroad Retirement: 515/284-4344
- Office of Personnel Management (federal pensions): 202/606-0500
- Dept. of Defense: [www.dfas.mil](http://www.dfas.mil)

“Never has an issue that affected so many people received so little attention”

Marie Therese Connolly,  
MacArthur “Genius” Award Recipient

# Contact Information:

For more information on elder abuse, neglect and financial exploitation, contact

Iowa Department on Aging

[www.iowaaging.gov](http://www.iowaaging.gov)

800-532-3213



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