

Elder Financial Exploitation Defined

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Faculty

Monica S. Sheeler
Assistant Attorney General
Office of Alabama Attorney General
Luther Strange



A Definition: Alabama Adult Protective Services Act

- **Exploitation:**
 - The expenditure, diminution, or use of the property, assets, or resources of a protected person without the express voluntary consent of that person or his / her legally authorized representative or the admission of . . .

A Definition: Alabama Adult Protective Services Act

- . . . or provision of care to a protected person who needs to be in the care of a licensed hospital by an unlicensed hospital after a court order obtained by the State Board of Health has directed closure of the unlicensed hospital.
38-9-2(8)

A Better Definition?

- Elder financial abuse encompasses, but is not limited to:
 - Taking money or property
 - Forging elder's signature
 - Getting elder to sign a deed / will / POA through deception, coercion, or undue influence

A Better Definition?

- Using elder's property or possessions without permission
- Promising lifelong care in exchange for money or property and not following through on the promise
- Credit card fraud
- Home improvement scams

A Better Definition?

- Telemarketing / sweepstakes / fake check / email scams
- Investment fraud

Let's Try This One

- Elder financial exploitation / abuse:
 - Any illegal or improper use of an elder's funds, property, or assets

**Perpetrators:
Who Would Do This?**

- Family members
- Predatory individuals
- Unscrupulous professionals

Family Members

- Includes sons, daughters, grandchildren, or spouses that may:
 - Have substance abuse, gambling, or financial problems
 - Stand to inherit and feel justified in taking what they believe is "rightfully" theirs

Family Members

- Fear that their older family member will get sick and use up their savings, depriving the abuser of an inheritance

Predatory Individuals

- Individuals who may seek out vulnerable seniors with the intent of exploiting them that may:
 - Profess to love the older person
 - Classic "sweetheart scam"
 - Personal care attendants

Predatory Individuals

- Identify vulnerable persons by driving through neighborhoods or through obituaries in local newspapers
- Be transient criminals that move from community to community

Unscrupulous Professionals

- Doctors / Attorneys / Accountants that may:
 - Overcharge for services or products
 - Use deceptive or unfair business practices
 - Use their positions of trust or respect to gain compliance

Vulnerability

- Any elder is vulnerable to becoming financially exploited, however, these factors may increase that risk:
 - Isolation
 - Loneliness
 - Recent losses
 - Spouse / children

Vulnerability

- Physical / mental disabilities
- Lack of familiarity with financial matters
- Have family members who are unemployed and / or have substance abuse problems

Attractive Targets

- Why do elderly make attractive targets?
 - Many seniors do not realize the value of their assets
 - They are more likely to have disabilities that make them dependent on others for help
 - They have predictable patterns

Attractive Targets

- They are less likely to take action against their abusers
- They are unsophisticated on financial matters
- They are trusting

Warning Signs

- **Three areas of concern**
 1. **Financial**
 2. **Inheritance and wills**
 3. **Caregivers**

Financial

- **Activity inconsistent with elder's ability**
 - **ATM usage by physically impaired person**
- **Increased credit card activity**
- **Cashing out CD's / savings accounts**
- **New authorized account signers**

Financial

- **Change in property title or new / refinanced mortgage**
- **Elder confused about recent financial transactions**

Inheritance / Wills / Trusts

- **Recent change in Power of Attorney**
- **Recent change in Will or Trust when elder is clearly incapable to authorizing change**
- **Recent change in Will or Trust to favor a new or much "younger" friend**

Caretaker

- **Elder now reluctant to discuss matters that were once routine**
- **Elder seems apprehensive of the outside world**
- **Caregiver says elder is not willing / able to accept visits / calls**

Caretaker

- **Caregiver often speaks for elder, even if elder is present**
- **Caregiver has no means of support other than elder's income**

Not So Obvious Forms of Financial Abuse

- There are two areas of financial abuse that elders fall victim to everyday that are not so obvious and usually go unreported:
 1. Fake check scams
 2. Telemarketing practices

Fake Check Scam

- What is this?
 - A type of fraud that could cost an elder thousands of dollars before detected
 - It starts when someone gives you a check that looks real and asks you to cash it and then wire part of the cash somewhere in return

Fake Check Scam

- It's phony and so is the person's story
 - It could take weeks to discover and that is exactly what the crook is counting on

Most Common Types of Fake Check Scams

- Sudden riches
- Mystery shopper
- Government grants
- Overpayments
- Sweetheart / new friend
- Grandparent scams

Sudden Riches

- Usually appears in lottery or sweepstakes forms and occasionally the death of a relative form
- Leads the victim to believe they are about to receive a windfall of cash and includes a check as an advance

Sudden Riches

- Instructions are to cash the check and use a partial amount of the money for "taxes" or "processing" fees
- The catch: 10 to 14 days later the check comes back to the bank as no good and the victim is responsible for the check

But Wait!

- **Hold on, wait just a minute . . .**
 - If my bank cashes the check then it's their problem **RIGHT?**

But Wait!

- **WRONG!**
 - **You, not the bank, is presenting the check as good for payment**
 - **The bank / financial institution accepts the check based on your identification**
 - **They do not have any information about the source**

But Wait!

- **You are ultimately responsible for repayment of the funds and this is exactly what the SCAMMERS ARE COUNTING ON!**
- **Financial institutions are beginning to put into place policies and procedures to assist victims**

Mystery Shopper

- **Hired to conduct “mystery shopping” and rate specific stores**
- **Given a check, instructed to cash check and spend specific amounts at each business**
- **Western Union / Money Gram, etc.**
 - **Always a store listed to rate with largest portion of check being used here**

Government Grants

- **Victim told they have been selected to receive government grant and is sent a check for part of total amount**
- **Instructed to cash check and send part of it back for processing fees**

Overpayments

- **Victim has something for sale listed in local paper**
- **Scammer offers to purchase but overpays**
- **Tells victim if they will cash check they can keep part of overpayment for their trouble**

Sweetheart Scams

- Scammer poses as a romantic interest or a new friend in elder's life
- After building a rapport, scammer hooks elder into cashing checks
 - Usually starts out with small amounts, then builds to larger amounts and eventually wipes out account

Grandparent Scams

- Scammer usually calls late at night or in the early morning hours and says they are grandchild
 - “Hey Grandma this is Johnny and I am in jail in Canada and I need \$5,000 for bail money”

Grandparent Scams

- Instructs grandparent to wire money to a specific place
- Grandparent does so in a panic before checking to see if grandchild is really out of the country

The Crooks Are Warning Us

- Read the letter!!
 - How was notification received?
 - Where did the notification come from?
 - What does the notification / letter actually say?
 - Does it make sense?

The Crooks Are Warning Us

- Are there misspelled words?
- Where was the postmark from?

Trust Your Common Sense!

- Before you cash that check, ASK yourself:
 - Why has the winner not been announced on TV?
 - Why am I required to pay taxes / fees upfront?
 - Why are the taxes not being paid directly to the IRS?

Trust Your Common Sense!

- Why would the U.S. need Canada to distribute government grant money?
- Did I actually buy a lottery ticket / enter a sweepstakes?

Trust Your Common Sense!

- Why does the buyer of your item expect you to trust them by allowing them to write the check for more than the purchase price when a bank would not?

The Most Important Question to Ask Your Client and Yourself

- What makes you / me so SPECIAL out of the BILLIONS of people in the world that someone / company would give you / me free money?

Telemarketing Practices

- Is there elder financial abuse in telemarketing?
 - Absolutely!

Ever Heard These Types of Statements?

- Buy one get 5 free
- All you have to pay is processing and handling fees

Do You REALLY Get Five Sets for FREE?

- Let's do the math and see how much FREE actually costs!

Free = \$109.89

- Free gifts cost!
 - S & H on 3 Free LED Lights
 - \$9.99 x 3 = \$29.97
 - S & H on 5 Free packages of the actual item
 - \$9.99 x 5 = \$49.95

Free = \$109.89

- S & H on 3 Free Jewelry Storage Boxes
 - \$9.99 x 3 = \$29.97
- FREE = \$109.89

Protections?

- The number one and most important protection against elder financial exploitation is EDUCATION

Protections?

- Alabama Department of Human Resources
 - Adult Protective Service Act-- 38-9-1
- District Attorney
 - Attorney General

Protections?

- Alabama Securities Commission
- SB262, The Alabama Interagency Council for the Prevention of Elder Abuse

**Protections?
38-9-1 (in Part . . .)**

- It shall be unlawful for any person to abuse, neglect, exploit, or emotionally abuse any protected person . . .
- Any person who exploits a person in violation of this chapter shall be guilty of a Class C felony . . . amount exceeds \$100

**Protections?
38-9-1 (in Part . . .)**

- Any person who exploits a person in violation of this chapter shall be guilty of a Class A misdemeanor . . . amount does not exceed \$100

Protections?

- SB262 – Alabama Interagency Council for the Prevention of Elder Abuse
 - Signed into law May 2012
 - Legislative Advocacy Committee
 - Community Outreach / Professional Training Committee