



Guide to financial exploitation

What is financial exploitation of an elderly person, or elder financial abuse?

According to the Department of Justice, financial or property exploitation means the illegal or improper use of an elderly or adult with a disability's money, property, or other resources for monetary or personal benefit, profit, or gain. This includes, but is not limited to, theft, misappropriation, concealment, misuse, or fraudulent deprivation of money or property belonging to an elderly person or an adult with a disability. In any case, financial exploitation is a crime. Older people, particularly those with Dementia or Alzheimer's can be vulnerable to abuse, including financial exploitation.

How to tell if someone is being exploited

Sometimes the person being exploited won't tell anyone, or they might not be aware of it. There might be a variety of reasons for this and it might be a complicated situation with a caregiver or family member. Sometimes they are ashamed so they might not tell you. Here are some signs to look out for that may indicate the presence of financial exploitation:

- Valuable possessions disappearing;
- Forged signatures for financial transactions or on the titles of possessions or assets;
- The sudden appearance of previously uninvolved relatives who are claiming their rights to an older person's property or possessions; or
- Someone providing unnecessary services.

If you have access to the person's financial situation, there are further signs you can look out for. Essentially, be on the lookout for unusual things happening to the accounts. These could include:

- Sudden changes in banking practices. For example, if they start withdrawing large amounts of money, if funds start disappearing, or there are sudden changes to their bank accounts;
- Adding names to a bank signature card;
- The unauthorized withdrawal of the older person's funds using their ATM card;
- Any unexplained transfer of assets or funds to a family member or someone outside the family; or
- Sudden changes to a will or any other financial documents.

How to tell if someone might be at risk of exploitation

Someone might be at risk of abuse if they are no longer able to think clearly and manage their finances. This could be indicated by a range of signs:

- They have trouble paying bills;
- They get confused about their finances;
- They are isolated - if they are lonely they might lower their guard and trust people they wouldn't usually;
- Behavioral changes such as new poor personal grooming or hygiene, weight loss or gain; or
- They don't comply with their medications and have to repeatedly go to the hospital.

How to prevent exploitation

- Encourage open conversation around finances with the elderly people in your life. If they are more willing to talk about finances when times are normal, they may feel more comfortable talking about financial exploitation if it occurs.
- Encourage the elderly person to use credit cards that can be tracked - rather than cash.
- Educate your elderly loved ones about the latest scams and discourage them from sharing their financial information online or over the phone.
- Encourage them to get a second opinion before changing anything important such as a will or financial information.

What to do about financial exploitation

If someone tells you they're being exploited, listen to them, believe them, and help them get the support they need. Start by calling your county's or statewide Adult Protective Services line (see below for Further Resources). If the abuse or exploitation is severe, you should call the police immediately on **911**.

Mandatory reporting

As of July 1, 2014, certain professionals must report any suspected or actual physical or sexual abuse, caretaker neglect, or exploitation of at-risk elders (persons 70 years of age or older). Your County Human Services department or Adult Protective Services will offer more information. See Further Resources for more information.

If you have any concerns that someone you know might be being exploited, please get in touch on (720) 457-4573 or email us at info@rockymtnelderlaw.com.

How elder law helps victims of financial exploitation

Elder law is all about protection. Everything we do at Rocky Mountain Elder Law, from estate planning to guardianships and conservatorships, helps protect a family's legacy. People think they only need a will to take care of their assets after death, but that is just one part of a larger plan that can be critical in safeguarding a legacy both before and after death.

I want to show how the different tools that I have at my disposal work together to help prevent and mitigate exploitation of any kind, at any point, particularly financial exploitation.

Estate plans

Everyone needs an estate plan. I always say that it is the final gift that you give to the people you love. It means that when you die, they can grieve, free of the burden of administration. Moreover, in creating an estate plan, we learn who owns what. In this way, we can then try to secure the smooth transition of assets to the right people. This reduces the opportunity for financial exploitation down the line.

[Download the list of the critical elements of our estate plans](#)



Estate probate & litigation

Usually in Colorado, one's estate is probated after death and it's not something to be afraid of. It is fairly inexpensive and allows for the smooth transition of the ownership of assets. However, sometimes in the administration of probate, or before, it comes to light that someone, usually within the family, but not always, has taken ownership of assets that aren't theirs, or wants to. This is then something that needs to be fought against and I advocate on behalf of my clients to ensure that everyone gets what is rightfully theirs.

Guardianships & conservatorships

Guardianships and conservatorships are vital tools in protecting the vulnerable. Safeguarding assets against predators is not a simple matter, especially when they are family members. At times, a guardianship or conservatorship may be in order. This could help a vulnerable person in a myriad of ways. This could consist of court oversight or could be a third party who looks after finances or healthcare matters.

Protecting against financial exploitation in practice

Putting in place a guardianship & conservatorship

I recently worked on a case where an elderly man with mild dementia was at risk of exploitation by those around him.

An 89-year-old Colorado man (Tom) with mild dementia had a girlfriend in her 60s (Sally). She had a financial Power of Attorney giving her power over his finances. Together, they would regularly visit the various banks he had accounts with to withdraw his money. In addition, the elderly man had a great-nephew (Andrew) whose college tuition he wanted to pay for and a niece, Bree, (the nephew's mother) with a serious gambling addiction.

Tom's 94-year-old sister Helen lived in Illinois and was concerned about Tom's money being taken by his girlfriend and family members such as Bree and Andrew. Helen called Tom's local Adult Protective Services for a welfare check on Tom to make sure that he was being cared for. Adult Protective Services found that Tom was being physically neglected and living in unsuitable conditions. They then called the police and Helen engaged me to help her brother.

Due to his mild dementia, Tom needed a guardian and conservator - someone to ensure that he was being taken care of and that his money was safe. In this case, Helen was the only one in the family willing to take on this responsibility but this was deemed inappropriate because she was out of state and due to her age.

Instead, Adult Protective Services proposed a third party guardianship and conservatorship to give Tom financial and medical security. The guardian and conservator is now an independent person, based in Colorado. Now, Tom has home care, an allowance and his finances are safe. He still sees his girlfriend Sally, but the Power of Attorney she had is void and she can no longer access his finances. Bree had no access to his money, but Tom could still pay for Andrew's college tuition, as he originally wanted.

This case was successful because this setup gives Tom protection against exploitation, but still allows him independence and the ability to make his own financial choices, as far as he is able.

Further Resources

- **Department of Justice** - <https://www.justice.gov/elderjustice/red-flags-elder-abuse>
- **Colorado Adult Protective Services** - <https://cdhs.colorado.gov/aps>
- **Adult Protective Services (Colorado's Front Range)**
 - Adams County - 720-523-2057
 - Arapahoe County - 303-636-1750
 - Boulder County - 303-441-1309
 - Clear Creek County - 844-264-5437
 - City and County of Broomfield - 720-887-2271
 - Elbert County - 303-621-3310
 - El Paso County - 719-444-5755
 - City and County of Denver - 720-944-3000
 - Douglas County - 303-663-6270
 - Fremont County - 719-275-2318
 - Gilpin County - 844-264-5437
 - Larimer County - 970-498-7770
 - Park County - 844-264-5437
 - Teller County - 719-686-5550
 - Weld County - 970-400-6700
- **Mandatory reporting** - <https://cdhs.colorado.gov/mandatory-reporting-of-adult-mistreatment>

Meet Kate Silburn, Elder Law Attorney



Kate's credentials of a Masters of Divinity and Juris Doctor, as well as her role as a hospice chaplain give her unique insight into the challenges facing older people at the end of their lives. She has seen what happens when the right protections are not in place and is dedicated to advocating for vulnerable people.

Rocky Mountain Elder Law is available to support clients in Denver's Metro area, Colorado's Front Range, and high mountain communities.