COMBATTING THE FINANCIAL ABUSE OF ELDERS
What You Should Know

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Jim is a Vice President of Bernstein Global Wealth Management in their Seattle office. Jim works with individuals, families and foundations as a Financial Advisor, assisting them in financial planning, asset allocation and asset management.

Jim has spent over 25 years in the financial services industries working with clients to solve their financial challenges and problems. Prior to joining Bernstein Jim provided clients with advice and execution of complex financial transactions helping his clients to reach their specific accounting, tax and financial objectives. Jim’s experience spans all sizes of clients, from small locally owned firms to some of our nation’s largest market leaders.

Jim received his Bachelor of Arts from the University of Washington business school. He also attended Seattle University where he earned a Masters in Business Administration. Jim lives in Bellevue with his wife and two children. Jim is active in the Bellevue Breakfast Rotary Club and a board member for the Lake Heights Family YMCA.

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Since 1980, Jan Pitzer has been an advocate and resource specialist for the elderly and handicapped. As a geriatric care consultant, she offers a thorough knowledge of home care and home health agencies, private care professionals, hospital discharge planning, nursing home staff and administration, physicians, mental health professionals, and physical, occupational and speech therapists throughout the Puget Sound region. Many of her clients are referred by trust companies or fiduciary services. Elderly and handicapped clients are often financially, physically and emotionally vulnerable. Jan is especially regarded for demonstrating trust, reliability and cost effectiveness in the consulting she provides. She is a graduate of the School of Social Work in the University of Washington and is a member of the National Association of Social Workers, the National Association of Private Geriatric Case Managers, Coordinators of Patient Services, the American Parkinson Disease Association and Citizens for the Improvement of Nursing Homes.
Detective Pamela St. John is a graduate of Cascade Business College and attended Whatcom Community College. She has been a Seattle Police Officer since 1993. She has been assigned to various patrol units including Harbor, Bicycle Patrol, and Crisis Intervention Unit. Pamela has been a Field Training Officer and participated in numerous undercover operations to include narcotics and vice details. She has worked as a detective in the Background, Domestic Violence and most currently the Elder Abuse Unit.

Pamela’s current assignment involves, investigating financial exploitation of Vulnerable Adults. Her primary responsibilities include determining immediate financial risk, interviewing victims, suspects and other associated people, as well as case preparation for filing with the prosecutor’s office. Her duties also include writing and executing search warrants, reading financial documents that illustrate the paper trail of alleged exploitation, and preparing spreadsheets to organize the data. In addition to her investigatory function, she also routinely provides outreach and public education on preventing these types of crimes.

Pamela lives in Maple Valley along with her husband and daughter.

Karen I. Treiger is a graduate of Barnard College and New York University School of Law, where she served as Editor-in-Chief of the Law Review. Earlier in her career, Karen served as a Legislative Assistant to Senator Slade Gorton in Washington D.C., specializing in health and entitlement policy and worked at Davis Wright Tremaine in the area of business law.

Karen’s current practice focuses on elder law issues, such as estate planning, long term care planning, guardianships, will contests, probates, special needs trusts and CARE Tool issues. She is the chair elect of the Washington State Bar Association Elder Law Section and is a member of the King County Bar Association Guardianship and Elder Law Section and the National Academy of Elder Law Attorneys. She is a Seattle native and has four wonderful children.

Elder Abuse Prevalence and Incidence

What Do the Studies Say?

- According to the best available estimates, between 1 and 2 million Americans age 65 or older have been injured, exploited, or otherwise mistreated by someone on whom they depended for care or protection. (Elder Mistreatment: Abuse, Neglect and Exploitation in an Aging America. 2003. Washington, DC: National Research Council Panel to Review Risk and Prevalence of Elder Abuse and Neglect.)


- Current estimates put the overall reporting of financial exploitation at only 1 in 25 cases, suggesting that there may be at least 5 million financial abuse victims each year. (Wasik, John F. 2000. “The Fleecing of America’s Elderly,” Consumers Digest, March/April.)

- It is estimated that for every one case of elder abuse, neglect, exploitation, or self-neglect reported to authorities, about five more go unreported. (National Elder Abuse Incidence Study. 1998. Washington, DC: National Center on Elder Abuse at American Public Human Services Association.)

Washington State Adult Protective Services (APS), January 1 – December 31, 2009
Reports of Abuse, Neglect, Self-Neglect, Exploitation of the Person, Financial Exploitation or Abandonment

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The Problem

From "Combating Financial Exploitation/Crimes Against the Elderly" by Lisa Nerenberg MSW, MPH
http://lisanerenberg.com/ Lori Delagrammatikus MSW

Financial elder abuse includes theft; the misuse of financial instruments like powers of attorney (POAs),
trusts, and deeds; and personal fraud, which includes affinity fraud, mortgage fraud, home repair scams,
telemarketing scams, investment fraud, ponzi schemes, and identity theft (Nerenberg, 2008). According
to a report by Met Life, the financial losses to victims are at least $2.6 billion a year (MetLife Mature
Market Institute, 2009). It has been estimated that only one in 25 cases of financial abuse is reported
and there may be at least 5 million financial abuse victims each year (Wasik, 2000).

Family members are the most common perpetrators. Adult sons are 2.5 times more likely than other
family members to take advantage of elders. Loneliness and isolation appear to raise the risk of elder
financial abuse. In addition to financial losses, the long-term effects include credit problems, health
issues, depression, and the loss of independence.

Red flags for elder financial abuse include caregivers who isolate elders from family and friends, elders’
experiencing anxiety about their finances, new “best friends,” missing belongings, elders’ no longer
receiving financial reports or documents from banks and other financial institutions.

Why Elders Are Targeted

Many elders have assets. About 77% of older homeowners own their homes free and clear. Many have
good credit ratings.

In the US, four to five million people are affected by dementia. The prevalence increases rapidly with
age, with prevalence rates doubling every five years after the age of 60. Over half of elders over the age
of 85 are affected. The 85+ population is projected to increase from 4.2 million in 2000 to 5.7 million in
2010 (a 36% increase) and then to 6.6 million in 2020 (a 15% increase for that decade). The prevalence
of dementia among nursing home residents is estimated to be 60 to 80% Many elders with dementia or
diminished mental capacity lack responsible parties or legally-designated surrogates who can take steps
to prevent abuse, identify and report abuse and take steps to mitigate the harm.

The elderly are likely to have in-home helpers, including personal care attendants, friendly visitors, and
meal service providers who have access to their clients’ property, financial papers, and identifying
information. A severe shortage of in-home helpers has resulted in more seniors hiring “independent
providers” directly from newspaper ads or referral services who are not screened or supervised by
agencies.

Challenges in Stopping Elder Financial Abuse

• Many victims are unable or unwilling to report.
• Service providers who are in a good position to observe abuse often don’t recognize the signs and
  symptoms or how to interpret financial information.
• Traditionally, seniors have been encouraged to keep all their important documents together in
  one easily accessible place, which raises their risk for identity theft.
Who is a Vulnerable Adult?

A vulnerable adult is defined by law as:

- a person 60 years of age or older who lacks the functional, physical, or mental ability to care for him or herself;
- an adult with a developmental disability per 71A.10.020;
- an adult with a legal guardian per 11.88 RCW;
- an adult living in a long-term care facility (an adult family home, boarding home or nursing home);
- an adult living in their own or family's home receiving services from an agency or contracted individual provider; or
- an adult self-directing their care per law (74.39.050 RCW)

Mental Capacity, Consent, and Undue Influence
(from NCPEA website: www.preventelderabuse.org)

What is Mental Capacity?

Mental capacity is the term used to describe the cluster of mental skills that people use in their everyday lives. It includes memory, logic, the ability to calculate, and the "flexibility" to turn one's attention from one task to another. Mental status assessment is a complex process involving a variety of measurements carried out by trained professionals. Simple tests, such as the mini mental status exam, are commonly used in a variety of settings to provide workers with a general impression of the scope and extent of a person's deficits.

Mental capacity is affected by many factors. As people age, they may experience some natural decline in certain mental functions, particularly memory. Pronounced decline, however, signals illness or disease. A variety of factors, some of which are treatable, may contribute to mental decline. These include poor nutrition, depression, and interactions between medications. Time of day may also be a factor as some people are more alert at certain times of day than at others.

What is consent?

Consent is when someone accepts or agrees to something that somebody else proposes. For consent to be legal and proper, the person consenting needs to have sufficient mental capacity to understand the implications and ramifications of his or her actions.

What is undue influence?

In recent years, the subject of undue influence has received increasing attention in the field of elder abuse prevention. Simply stated, undue influence is when an individual who is stronger or more powerful gets a weaker individual to do something that the weaker person would not have done otherwise. The stronger person uses various techniques or manipulations over time to gain power and compliance. They may isolate the weaker person, promote dependency, or induce fear and distrust of others. Because undue influence, like mental capacity, raises the question of whether an individual is acting freely, the two concepts are often confused. Although diminished mental capacity may contribute to a person's vulnerability to undue influence, the two are distinct and cognitive assessments cannot identify the presence of undue influence. It is typically courts that make determinations of whether or not undue influence has been exercised. In doing so, they consider a variety of factors, including whether the transaction took place at an appropriate time and in an appropriate setting and whether the older person was pressured into acting quickly or discouraged from seeking advice from others. Courts also consider the relationship between the parties, and the "fairness" of the transaction.
What is Financial Abuse?

Legal Definition: "Illegal or improper use of the property, income, resources, or trust funds of the vulnerable adult by any person for any person's profit or advantage other than for the vulnerable adult's profit or advantage."

- Criminal Conduct: Stealing, improper use of debit cards, stealing the identity of the vulnerable adult, check forgery. The activity becomes a crime when a loss occurs.
- Improper Conduct: Not necessarily criminal, but improper. Examples may be: using a power of attorney or a professional employed by the vulnerable adult to obtain property of the vulnerable adult. The breach of a fiduciary obligation of a power-of-attorney to a vulnerable adult.
- Poor choices: Poor choices are neither criminal nor improper conduct.

Remedies that Financial Institutions Can Pursue: Protecting the interests of your client.

- Financial institutions have the ability, but not the obligation to report suspicious transactions or activity to law enforcement and Adult Protective Services (APS).
- Short Term Transaction Freeze

Signs of Financial Exploitation

- sudden changes in bank account or banking practice, including an unexplained withdrawal of large sums of money
- adding additional names on bank signature cards
- unauthorized withdrawal of funds using an ATM card
- abrupt changes in a will or other financial documents
- unexplained disappearance of funds or valuable possessions
- bills unpaid despite the money being available to pay them
- forging a signature on financial transactions or for the titles of possessions
- sudden appearance of previously uninvolved relatives claiming rights to a vulnerable adult's possessions
- unexplained sudden transfer of assets to a family member or someone outside the family
- providing services that are not necessary
- individual's report of exploitation

Abuse of Powers of Attorney (POA)

A POA is a document with which one person (the principal) grants authority to another (the "agent," or “attorney in fact”) to act on the principal's behalf. It gives the agent the power to manage, dispose of, or sell the principal's property or to use the property as security to borrow money on the principal's behalf.

A durable power of attorney (DPA) "endures" after the onset of incapacity. A DPA must contain language stating that it is intended to be durable, such as “This power of attorney shall not be affected by the subsequent incapacity of the principal.” Without this provision, the POA terminates once the principal becomes incapacitated. Executing a DPA allows a competent elder to choose a trustworthy person to handle his affairs and continue to do so even if he or she becomes incapacitated. The power may become effective at the time it is signed or, in the case of a "springing power of attorney," at a specified time or event in the future. For example, a DPA may be designed to "spring" only if and when the principal is deemed incapacitated by his or her physician.
At present, there is little oversight of powers of attorney and the following problems and abuses are increasingly being reported:

- The requirements for signing are not met (e.g. the power of attorney must be signed in the presence of a notary public or by at least two witnesses, the attorney in fact may not act as a witness, etc.)
- The principal was coerced or tricked into signing the document
- The principal lacked sufficient mental capacity at the time he or she signed it (the principal must understand the document at the time of signing regardless of the type of POA)
- The attorney-in-fact uses the power after it has terminated (the principal has become incapacitated and the power is not a durable one)
- The attorney-in-fact uses the POA for purposes other than those for which it was intended
- The agent transfers the principal’s property to herself without specific authorization in the power of attorney
- The agent does not act solely in the interest of the principal
- The agent has failed to keep the principal’s property separate and distinct from his own

Identity Theft: A Growing Concern

Why are elders vulnerable?

Linda Foley, executive director of the San Diego-based Identity Theft Resource Center, states that seniors are more susceptible to identity theft because:

- Many hospitals and nursing homes use patients' Social Security numbers as identification information, and some print the number on wristbands worn by the patients.
- Seniors usually carry their Medicare cards with them in case of emergency. The cards contain beneficiaries' Social Security numbers.
- Seniors are more susceptible to muggers because of frailty.
- Fraudulent telemarketers, through sustained contact and pressure, are often able to get elders to tell them their Social Security numbers.
- Security Breaches. For example, in 2004, hackers gained access to a database that contained the names, addresses, telephone and Social Security numbers, and birth dates of 1.4 million recipients of the state’s In-Home Support Service (IHSS) program.

The identities of deceased elders may be stolen, leaving surviving spouses or other family members with debt or other problems.

- Identity thieves obtain information about deceased individuals by watching obituaries, stealing death certificates, or accessing Social Security Death Index files.
- Thieves may be family members who have been using the identity for a long time.
- Because financial institutions are not always immediately notified when customers die (e.g. the Social Security Administration does not promptly transmit Death Master Files to the financial industry), accounts remain open, sometimes for many years. Thieves continue to use the deceased persons’ Social Security numbers.

From “Combating Financial Exploitation/Crimes Against the Elderly” by Lisa Nerenberg MSW, MPH
http://lisanerenberg.com/ Lori Delagrammatikus MSW
Proactive and Offensive Legal Tools in Combatting Financial Abuse of Elders

I. INTRODUCTION – Take-a-way points
   a. It is extremely helpful to one's spouse/domestic partner/children/loved ones to get affairs in order. If you do not, it will be a burden on them. Also, saves money in probate.
   b. Estate planning documents can go a long way, but cannot solve all.
   c. Think about legacy – how will we be remembered after we are gone? What can we do to shape that while you are alive?
   d. Tools in the legal toolbox – DPOA; Will; Trusts; Health Care Directive; POLST; Guardianship; Vulnerable Adult Protection Order; (Ethical Will)
   e. Important issues not covering – tax planning; Medicaid planning.
   f. How can we help our clients to be protected as they age.

II. WHEN CLIENT IS COMPETENT?
   a. Don’t be shy to discuss end of life issues.
   b. New client – always ask about old attorney, advisor, accountant (son, new girlfriend, caregiver, etc. brings elderly to a new attorney, accountant, broker, investment advisor to change estate planning and/or asset distribution! – red flag).
   c. Know your client and who their trusted agents are (attorney, accountant, investment advisor, broker); meet them more than once a year; ask open ended questions to assess capacity.
   d. DPOA – great tool; private; and can be extremely dangerous (90% of abuse = family).
   e. Issues: health care decisions; financial decisions; effective date; who to appoint (need total confidence in appointee; use professional if need to); gifting clause, health care decisions, right to move signor to facility.
   f. Benefits: can avoid guardianship; can have result that client most desires.
   g. Challenges: unethical agent; can’t stop Principal from making bad decisions.
   h. If child takes money while mom or dad is still alive thinking they will just inherit early – NO = theft.
   i. Include authority in DPOA to speak to attorney and other professional advisors – relieves professional of ethical issues of breaching confidentiality.
   j. If do not have DPOA or it is not working, will need a guardianship (sometimes can compromise by creating a Trust if the person has some capacity).
   k. Legal standard to sign a DPOA: test = whether the person possesses sufficient mind to understand, in a reasonable manner, the nature and effect of the act in which he is engaged (contractual capacity).
   l. Presumption in law = person has capacity. The presumption can be overcome with clear, cogent and convincing evidence.
III. **WHEN CLIENT HAS DIMINISHED CAPACITY**

a. If feel client is of diminished capacity and no longer making good decisions, what can you do? No good solutions. Very challenging.

b. Ethical concerns – each profession has set of ethical rules. Attorney – can breach confidentiality in order to protect client – must be narrowly construed. If included language in DPOA – then have authority to call attorney-in-fact and get assistance. If not, and you are suspicious of attorney-in-fact, call Principal's attorney or other more trusted family member. Can petition for guardianship under Professional Rules of Conduct and statutes. "Any interested person" can petition.

c. How do you know when guardianship is appropriate? Function test based upon factual evidence. “Significant risk of personal harm based on demonstrated inability to adequately provide for nutrition, health, housing or physical safety.” Estate = “significant risk of financial harm based upon a demonstrated inability to adequately manage property or financial affairs.” Sometimes have to wait until something bad happens to get the evidence needed to impose a guardianship.

d. If no one trusted to serve – use a professional guardian.

IV. **VULNERABLE ADULT PROTECTION ORDER (VAPO)**

a. Emergency tool to protect vulnerable adult (VA).

b. Anyone interested in the VA may petition the court for a VAPO. Present evidence that VA is being abused, neglected, financially exploited.

c. No notice to abuser. Commissioner will issue an ex parte order protecting the VA – stating a person cannot visit, cannot access bank accounts, for example.

d. Two weeks later, hearing where the accused abuser can come in and make his/her case. Court will decide whether to extend VAPO.

e. If person really cannot care for themselves, a guardianship proceeding usually follows to protect the person long term.

V. **GUARDIANSHIP**

a. When is it time to petition for guardianship?

b. Guardianship standard is fact based – is there evidence that the person cannot manage their finances properly? Is there evidence that the person cannot care for their health, nutrition, housing, etc.? (see statutory test above).

c. Court will always ask if there is a lesser restrictive alternative.

d. Sometimes you have to wait until something bad happens to have evidence that they can no longer manage on their own.

e. Any interested person can petition court.

f. Guardian ad Litem (GAL) appointed – to investigate for court.

g. GAL report; medical report.

h. Alleged incapacitated person has a right to counsel.

i. Hearing – 60 days after petition filed.

j. Loss of civil rights, finding of incapacity, court supervised, public record.

k. Expense.

l. If indigent, hard to get guardian (office of public guardian-limited).

m. Filing guardianship petition can affect family relationships.
VI. WILLS

a. Personal Representative; alternate – professional if need.
b. Capacity standard – lower than DPOA.
c. Lucid moments – enough to sign a Will.
d. Don’t write kid out of will – invites Will contest.
e. Will contests – very expensive.
f. Legacy – charitable gifts.
g. Non-probate assets – consider in overall plan (e.g., IRA, 401(k); life insurance policies, joint accounts with right of survivorship, community property agreement).

VII. ETHICAL WILL – MORAL/ETHICAL LEGACY

a. Letter to loved ones
   b. Can share while alive or save until after death
   c. Leave message/legacy of belief and ideas
Reporting Abuse

As soon as you have reason to believe that abuse is occurring, call for help. You do not need absolute proof to report suspected abuse or to give your name. Remember, law enforcement and social service agencies cannot be everywhere. It takes all of us to help make sure that those who need protection are safe.

To report abuse or neglect of a vulnerable adult or a child in Washington State, call the DSHS toll-free EndHarm hotline anytime day or night at 1-866-363-4276. ENDHARM is TTY accessible. When you call, you will speak with a real person, who will connect you to the direct, local number to make your report. You can also call directly during business hours. Call:

- the Complaint Resolution Unit toll-free hotline at 1-800-562-6078 if the person that you suspect is being abused or neglected is living in a nursing home, boarding home, or adult family home.
- the Adult Protective Services (APS) office in your county if the person that you suspect is being abused is living in their own home or somewhere other than a residential care facility. Find the APS office in your county. Learn more about what happens after you call APS.

If it's an emergency and the person is in immediate danger, call the police.

When you call

You will be asked to give the person’s name, address, contact information and details about why you are concerned. You will also be asked for your name and number or some way of contacting you if the investigator has follow up questions. Unless there is a court action, law enforcement has been called in, or you agree, your identity is confidential. If you report in good faith, you cannot be held liable for any damages resulting from reporting.

There are certain professionals and groups of people who are mandatory reporters of abuse.
Preventing Abuse

6 Tips on what you can do to help prevent abuse of a vulnerable adult

1. Keep a watchful eye out for family, friends, and neighbors who may be vulnerable.
2. Understand that abuse can happen to anyone and know what to look for.
3. Speak up if you have concerns. Trust your instincts!
4. Find ways to limit the person’s isolation if that is an issue. Discuss options with him/her or encourage him/her to contact someone who can.
5. **Report** any suspicions you have of abuse.

Excerpted in part from [15 Questions and Answers about Elder Abuse](https://www.nationalcenteronelderabuse.gov) - National Center on Elder Abuse

15 Tips on what you can do to help prevent abuse if you are a vulnerable adult

1. Stay busy and engaged in life.
2. Do not become isolated from others or favorite activities.
3. Don’t allow anyone else to isolate you in any way (e.g. not allowing you to talk to others unless the other person is there or visit a doctor, clergy or friends).
4. Take good care of yourself for life. Older adults in declining health can become more vulnerable to abuse because of the increasing dependence.
5. Maintain regular medical and dental appointments and take care of your personal needs.
6. Be aware of the link to addiction problems. People who drink too much or use other drugs are at high risk of being abusive.
7. If an adult relative, particularly one who leads a troubled life, wants to live with you, think it over carefully. Be especially careful if the individual has a history of violent behavior, drug or alcohol abuse.
8. Assert your right to be treated with dignity and respect. Be clear about what you will and will not tolerate and set boundaries.
10. Trust your instincts.
11. Listen to the voice inside you when it calls out something is not right. Ask for help if you need it.
12. Cultivate a strong support network of family and friends who are concerned about your well-being.
13. Do not let anyone, whether a family member, friend or caregiver, isolate you from the telephone or other people or prevent you from leaving your house.
14. If living with another, have your own phone. Send and open your own mail.
15. When you need help, ask a trusted friend, attorney, family member or physician before you act.

Excerpted in part from [15 Questions and Answers about Elder Abuse](https://www.nationalcenteronelderabuse.gov) - National Center on Elder Abuse
15 Tips for protecting yourself from financial exploitation

Financial exploitation is one of the most reported types of abuse directed at vulnerable adults. Learn more about how to protect yourself against common scams directed at seniors from the Consumer Protection Division of the Office of the Attorney General.

1. Do not give your personal information (e.g. social security number or birth date) or access to financial information to someone you hardly know.
2. Do not give your credit card number, your social security number or bank account numbers over the phone.
3. Do not add another person’s name to bank or insurance documents without legal advice.
4. Be thoroughly familiar with your financial status and know how to handle your assets.
5. Organize your financial documents in one place for easy and quick reference. AARP has designed a form to help document where to locate important documents before a crisis occurs.
6. Telephone scam artists try to get your personal information by offering prizes, credit cards and other false benefits. If it is too good to be true, it probably is.
7. Do not sign any document until you or someone you trust has read it.
8. Get two or more bids for home repair work from reputable contractors. Do not hire anyone unless they are bonded and licensed. Beware of having more work done than is needed.
9. There are many charity scams where the charity does not exist. Donate to known charities.
10. Make sure you check the references of a potential caregiver and, if possible, perform a background check. Rule out anyone with a history of violence, alcohol or drug abuse.
11. Get legal advice for questions regarding power of attorney or durable power of attorney. Make sure that the person you designate as your power of attorney is someone you know and trust well.
12. Make a will and carefully consider all revisions before finalizing them.
13. Be wary about deeding or willing your house or other assets to anyone who promises to keep you out of a nursing home or take care of you at home if you become disabled.
15. Consider direct deposit for any regular monthly income.
Washington State Laws Relating to Financial Abuse

RCW 74.34.215

Financial exploitation of vulnerable adults.

(1) Pending an investigation by the financial institution, the department, or law enforcement, if a financial institution reasonably believes that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted, the financial institution may, but is not required to, refuse a transaction requiring disbursal of funds contained in the account:

   (a) Of the vulnerable adult;

   (b) On which the vulnerable adult is a beneficiary, including a trust or guardianship account; or

   (c) Of a person suspected of perpetrating financial exploitation of a vulnerable adult.

(2) A financial institution may also refuse to disburse funds under this section if the department, law enforcement, or the prosecuting attorney's office provides information to the financial institution demonstrating that it is reasonable to believe that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted.

(3) A financial institution is not required to refuse to disburse funds when provided with information alleging that financial exploitation may have occurred, may have been attempted, or is being attempted, but may use its discretion to determine whether or not to refuse to disburse funds based on the information available to the financial institution.

(4) A financial institution that refuses to disburse funds based on a reasonable belief that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted shall:

   (a) Make a reasonable effort to notify all parties authorized to transact business on the account orally or in writing; and

   (b) Report the incident to the adult protective services division of the department and local law enforcement.

(5) Any refusal to disburse funds as authorized by this section based on the reasonable belief of a financial institution that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted will expire upon the sooner of:

   (a) Ten business days after the date on which the financial institution first refused to disburse the funds if the transaction involved the sale of a security or offer to sell a security, as defined in RCW 21.20.005, unless sooner terminated by an order of a court of competent jurisdiction;

   (b) Five business days after the date on which the financial institution first refused to disburse the funds if the transaction did not involve the sale of a security or offer to sell a security, as defined in RCW 21.20.005, unless sooner terminated by an order of a court of competent jurisdiction; or
(c) The time when the financial institution is satisfied that the disbursement will not result in financial exploitation of a vulnerable adult.

(6) A court of competent jurisdiction may enter an order extending the refusal by the financial institution to disburse funds based on a reasonable belief that financial exploitation of a vulnerable adult may have occurred, may have been attempted, or is being attempted. A court of competent jurisdiction may also order other protective relief as authorized by RCW 7.40.010 and 74.34.130.

(7) A financial institution or an employee of a financial institution is immune from criminal, civil, and administrative liability for refusing to disburse funds or disbursing funds under this section and for actions taken in furtherance of that determination if the determination of whether or not to disburse funds was made in good faith.

RCW 74.34.200

Abandonment, abuse, financial exploitation, or neglect of a vulnerable adult — Cause of action for damages — Legislative intent.

(1) In addition to other remedies available under the law, a vulnerable adult who has been subjected to abandonment, abuse, financial exploitation, or neglect either while residing in a facility or in the case of a person residing at home who receives care from a home health, hospice, or home care agency, or an individual provider, shall have a cause of action for damages on account of his or her injuries, pain and suffering, and loss of property sustained thereby. This action shall be available where the defendant is or was a corporation, trust, unincorporated association, partnership, administrator, employee, agent, officer, partner, or director of a facility, or of a home health, hospice, or home care agency licensed or required to be licensed under chapter 70.127 RCW, as now or subsequently designated, or an individual provider.

(2) It is the intent of the legislature, however, that where there is a dispute about the care or treatment of a vulnerable adult, the parties should use the least formal means available to try to resolve the dispute. Where feasible, parties are encouraged but not mandated to employ direct discussion with the health care provider, use of the long-term care ombudsman or other intermediaries, and, when necessary, recourse through licensing or other regulatory authorities.

(3) In an action brought under this section, a prevailing plaintiff shall be awarded his or her actual damages, together with the costs of the suit, including a reasonable attorney's fee. The term "costs" includes, but is not limited to, the reasonable fees for a guardian, guardian ad litem, and experts, if any, that may be necessary to the litigation of a claim brought under this section.
RCW 74.34.220

Financial exploitation of vulnerable adults — Training — Reporting.

(1) A financial institution shall provide training concerning the financial exploitation of vulnerable adults to the employees specified in subsection (2) of this section within one year of June 10, 2010, and shall thereafter provide such training to the new employees specified in subsection (2) of this section within the first three months of their employment.

(2) A financial institution that is a broker-dealer or investment adviser as defined in RCW 21.20.005 shall provide training concerning the financial exploitation of vulnerable adults to employees who are required to be registered in the state of Washington as salespersons or investment adviser representatives under RCW 21.20.040 and who have contact with customers and access to account information on a regular basis and as part of their job. All other financial institutions shall provide training concerning the financial exploitation of vulnerable adults to employees who have contact with customers and access to account information on a regular basis and as part of their job.

(3) The training must include recognition of indicators of financial exploitation of a vulnerable adult, the manner in which employees may report suspected financial exploitation to the department and law enforcement as permissive reporters, and steps employees may take to prevent suspected financial exploitation of a vulnerable adult as authorized by law or agreements between the financial institution and customers of the financial institution. The office of the attorney general and the department shall develop a standardized training that financial institutions may offer, or the financial institution may develop its own training.

(4) A financial institution may provide access to or copies of records that are relevant to suspected financial exploitation or attempted financial exploitation of a vulnerable adult to the department, law enforcement, or the prosecuting attorney’s office, either as part of a referral to the department, law enforcement, or the prosecuting attorney’s office, or upon request of the department, law enforcement, or the prosecuting attorney’s office pursuant to an investigation. The records may include historical records as well as records relating to the most recent transaction or transactions that may comprise financial exploitation.

(5) A financial institution or employee of a financial institution participating in good faith in making a report or providing documentation or access to information to the department, law enforcement, or the prosecuting attorney’s office under this chapter shall be immune from criminal, civil, or administrative liability.
Resources

Washington State Aging & Disability Services Administration
http://www.adsa.dshs.wa.gov/APS/reportabuse.htm

Seattle Police Department Elder Abuse Section
http://www.seattle.gov/police/prevention/Elder/default.htm

National Center on Elder Abuse (NCEA)
http://www.ncea.aoa.gov/ncearoot/Main_Site/index.aspx
NCEA conducts research; provides technical assistance; and produces reports and monographs to federal, state, and local agencies, professionals, and the public. Services include:
- A listserv for practitioners, administrators, educators, health professionals, researchers, law enforcement, advocates, legal professionals and policy makers. For information on how to subscribe, visit NCEA’s Web site.

Clearinghouse on Abuse and Neglect of the Elderly (CANE). Operated by the College of Human Resources of the University of Delaware, CANE is a collection of materials and resources. It produces annotated bibliographies for professionals and the public.
http://www.ncea.aoa.gov/NCEAroot/Main_Site/Library/CANE/CANE.aspx

The Elder Financial Protection Network (California)
http://bewiseonline.org/
EFPN provides community education and professional training to employees of financial institutions and social services agencies.

The Eldercare Locator
http://www.eldercare.gov/Eldercare.NET/Public/Home.aspx
A public service of the U.S. Administration on Aging that helps older persons and their families find local services like transportation, meals, home care, and caregiver support services in every U.S. community. Available online or by phone at 800-677-1116.