Legal tools to combat exploitation and abuse of older people.

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These slides are now on our website!

http://elder-clinic.law.wfu.edu
Halloween is over, but it’s still scary out there...

• The man who lost his $40,000 retirement/401(k) to on-line scammers, and then borrowed money to give them more.

• The parents asked the eldest daughter to help Dad, when he got dementia. She added her name to his $200K bank account as “joint with right of survivorship.” He later died and his wife (the mom) got -0-.

• A man with dementia was sometimes locked in his room with a bucket for a toilet. Social Services learned of his situation. “I’m so hungry!” he kept saying to the DSS worker.
Typical sources of exploitation or abuse

- Adult children and caregivers.
- Phone callers and internet scams.
- Trusted individuals, including lawyers, investment advisors, sales people, church members, etc.
- Agents under POAs who are not supervised/monitored.
Types of abuse and exploitation

- Financial
- Emotional
- Sexual
- Physical
- Self-neglect
- Neglect by caregivers and family
What makes us vulnerable?

• Cognitive impairment.
• The allure of the internet.
• The new friend.
• The attentive charity.
• Our desire to help our relatives.
What else?

• Denial of frailties of aging.

• Loneliness, grief and boredom. And love!

• Lack of resources to get help or go elsewhere

• Embarrassment and fear of repercussions of reporting exploitation.
Civil suits
(you suing someone)

Government agencies.
- county Dept. of Social Services (APS),
- state and federal agencies
  (ex.: attorney general, FBI and
  the Federal Trade Commission)

Criminal court
(U.S. or the State of NC
versus the defendant)
Typical civil lawsuit claims

• Breach of fiduciary duty

• Conversion (taking your property w/o your permission)

• Trespass (or other real estate claim).

• Fraud
Other civil court claims

- Lack of capacity to sign the contract
- Undue influence
- Guardianship
- Unconscionability
Clerk of Court can investigate POA agent

• The Clerk can be asked to review the agent’s handling of assets.
• Competent principal can ask the Clerk to dismiss the case.
• The Clerk can hold someone in contempt of court for not showing up.
New federal law
“Senior Safe Act”

• Financial institutions and investment brokers can report suspected fraud to law enforcement without fear of being sued, as long as they have trained their employees in how to detect suspicious activity.
Self-help tools

1. Plan for a financial surrogate and taking other steps to protect your finances.
2. Avoid common frauds.
3. Recognize your increased vulnerability.
4. Admit when you’ve screwed up.
A financial surrogate – usually a durable POA

• See an independent attorney to discuss. An experienced elder law attorney knows the unique issues of older adults.

• Recommend that you, not your family, pay the attorney.

• Be sure the agent knows the limits on his/her powers.

• Consider having someone else monitor your agent.

• Useful to give agent ability to see your spending on-line or each month.
Giving your trusted person your passwords.

• A password manager application like LastPass generates strong passwords. Also, you can give someone access to your list.

• Another option is a hand-written list kept in a safe place and updated regularly.
Tips to Avoid Frauds

• Use caller ID and sign up for “Do Not Call” registries.

• On landlines, use *77 to block anonymous calls.

• Use reputable payment processors like your bank or PayPal.

• Use a Soc. Sec. representative payee or VA fiduciary, when sick.
• Beware of “Go Fund Me” campaigns.

• Check out www.charitynavigator.org

• Don’t give out, by phone, your:
  • SSN,
  • DOB,
  • Medicare #,
  • bank account #.
Avoiding fraud

• Remember those triggers and vulnerabilities.

• The latest: gift cards or “reload” cards to pay.
A ...... gift card???

• Anyone who demands payment by a gift card is a scammer.

• Caller claims to be from the IRS, collecting back taxes or fines.

• Caller says she’s from tech support, asking for $$ to fix your computer.

• The caller might even say she’s a family member with an emergency and needs money right now.
Typical cards requested

• Caller often tells you to go buy the card at a particular store, like Walmart, Target, or CVS. Or, to buy several cards at several stores.

• Once you get the card, the caller asks for the card number and PIN on the back. They then get the $$$ on the card right away.
Just a few other frauds

• Mishandling of funds in a joint account.

• Misuse of your ATM card.

• “Affinity fraud” – fraud by people you have something in common with.
Yes, and more!

• Phony credentials. Check on your “investment advisor” at the NC Secretary of State website.

• Dependent “boomerang” children.

• Vision impairments make you reliant on others.
Resources
• Forsyth County Department of Social Services (DSS)
  • Adult Protective Services (APS), 336-703-3503
  • [www.co.forsyth.nc.us/dss/adult_protect.aspx](http://www.co.forsyth.nc.us/dss/adult_protect.aspx)

• Long Term Care Ombudsman - helps residents of assisted living and nursing facilities. (336) 904-0300
  • [www.ptrc.org/services/area-agency-on-aging/long-term-care](http://www.ptrc.org/services/area-agency-on-aging/long-term-care)

• “What is Elder Abuse?”  [www.ptrc.org/services/area-agency-on-aging/long-term-care/what-is-elder-abuse](http://www.ptrc.org/services/area-agency-on-aging/long-term-care/what-is-elder-abuse)
• **NC Attorney General Consumer Protection Division**

• 1-877-5-NO-SCAM or (919) 716-6000

• [www.ncdoj.gov/Top-Issues/Protecting-Consumers.aspx](http://www.ncdoj.gov/Top-Issues/Protecting-Consumers.aspx)

• Free credit freeze: [www.ncdoj.gov/getdoc/5ec7dfed-a28e-4b26-92c2-42df5fa0c36e/Freeze-Your-Credit.aspx](http://www.ncdoj.gov/getdoc/5ec7dfed-a28e-4b26-92c2-42df5fa0c36e/Freeze-Your-Credit.aspx)
• Do Not Call Registry, [www.donotcall.gov](http://www.donotcall.gov). Also, most landlines allow you to block anonymous calls by entering #77.

• Another type of credit freeze: National Consumer Telecom and Utilities Exchange: [www.nctue.com/Consumers](http://www.nctue.com/Consumers)

• Senior Financial Care (Financial Pathways), 336-896-1328
• FBI, [www.fbi.gov/scams-safety](http://www.fbi.gov/scams-safety)

• Consumer Finance Protection Bureau (CFPB) [www.consumerfinance.gov](http://www.consumerfinance.gov). Especially useful: “Money Smart for Older Adults,” Feb. 2017
• Possible abuse of a POA:

• Scams and gift cards:  www.consumer.ftc.gov/articles/paying-scammers-gift-cards
• National Academy of Elder Law Attorneys: www.naela.org

• For a board-certified elder law specialist:
  • NC State Bar Board of Legal Specialization, www.nclawspecialists.gov/for-the-public/find-a-board-certified-specialist/results/?id=1113
  • National Elder Law Foundation, www.nelf.org/find-a-cela/

• Legal Aid of NC Senior Hotline: 1-877-579-7562. www.legalaidnc.org

• WFU Elder Law Clinic, 336-758-5061. http://elder-clinic.law.wfu.edu
Investments

NC Secretary of State: [www.sosnc.gov/divisions/securities/for_investors](http://www.sosnc.gov/divisions/securities/for_investors)


The Financial Industry Regulatory Authority (FINRA) Securities Helpline for Seniors; 844-57-HELPS or [www.finra.org/investors/investor-complaint-center](http://www.finra.org/investors/investor-complaint-center)
• Winston-Salem Police Department, 336-773-7700
  www.cityofws.org/departments/Police

• Forsyth County Sheriff, 336-917-7001

• National Center on Elder Abuse: https://ncea.acl.gov
  1-855-500-3537

• Identity theft concerns: www.identitytheft.gov
• **Safe on Seven - SOS** (help for domestic violence) 336-776-3255.
  - [https://familyservicesforsyth.org/find-help/safe-relationships/domestic-violence/safe-on-seven/](https://familyservicesforsyth.org/find-help/safe-relationships/domestic-violence/safe-on-seven/)
  - Mon.-Fri., from 8 to 5. Address: 725 Highland Ave., W-S

• **Postal Inspection Service**, 1-877-772-1213
  - [https://postalinspectors.uspis.gov/](https://postalinspectors.uspis.gov/)

• **Medicare coverage of mental health**
Thank you!