



Elder Abuse Q&A

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How to use this guide

Senior Law Day Collaborative Q&As are intended to guide older adults and caregivers as they address issues related to aging and planning for the future. We suggest you review this information in the full before seeking out an elder law attorney or other professional, so that you are familiar with the terms and can be ready to ask questions specific to your needs.

At our website – seniorlawday.info – you will find:

- additional Q&As for review and download
- a library of recorded webinars on topics relevant to elders and caregivers
- an opportunity to get your specific questions answered via email or during our quarterly consultation events
- notice up upcoming educational programs

All services of the Collaborative are offered at no charge. Our goal is to help you get the answers you need so you can plan and move forward with confidence.

*This Q&A is an excerpt from the 22nd edition of the **Elder Law Q&A: An Introduction to Aging Issues and Planning for the Future** written by Steven A. Schurkman Esq. and members of the Senior Law Day Collaborative.*

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Elder Abuse

What is elder abuse?

According to a report issued by the Centers for Disease Control*, elder abuse is an intentional act or failure to act by a caregiver or another person in a relationship involving an expectation of trust that causes or creates a risk of harm to an older adult.

What are some common forms of elder abuse?

Physical abuse, psychological and emotional abuse, sexual abuse and economic or financial exploitation are all forms of elder abuse. Abuse may be subtle; even inaction can sometimes be abusive. Abuse is generally a pattern repeated over time, and is rarely a one-time occurrence. It is important for older adults to know their legal rights to prevent or stop abuse.

It is estimated that one out of ten Americans over 60 living in the community has experienced some form of elder abuse. In New York State, only one in twenty four cases of elder abuse is reported to social services or law enforcement professionals.

Who commits elder abuse?

Among reported cases, a family member, including adult children and spouses, was often the person committing the elder abuse.

While any family member could be abusive or neglectful, adult children are the most common perpetrators. Abusers often live with the parent they are mistreating and frequently depend on that parent financially and emotionally. Other abusive family members may be spouses, adult grandchildren or other relatives, such as nieces, nephews, cousins, stepchildren or step-grandchildren, or siblings. While there is no “typical” abuser profile, many abusers often have drug addictions, substance abuse problems, serious and untreated mental health issues and a past history of violence.

Abusers can also be trusted professionals. In a study by the MetLife Mature Market Institute*, they found that a large percentage of elder financial abuse cases involved close associates of the victim – families, friends, caregivers and neighbors – as the perpetrator of the abuse, accounting collectively for 34% of the reported cases. Exploitation within the business sector, coupled with Medicare and Medicaid fraud, accounted for a combined 16% of reported cases. The MetLife study estimated that \$2.9 billion was taken from seniors, while a more recent

Senior Vulnerability Survey** estimated a much higher figure – over \$30 billion.

*The MetLife Study of Elder Financial Abuse: Crimes of Occasion, Desperation and Predation against America's Elders, June 2011 **The True Link Report on Elder Financial Abuse 2015

What are some instances of Elder Abuse and neglect?

Every elder abuse situation has its own unique and distinct set of circumstances. Some examples of abuse are:

A son, in order to punish his 76 year old father, takes his dentures to limit what he can eat.

- **Physical Abuse** is the intentional use of physical force that results in acute or chronic illness, bodily injury, physical pain, functional impairment, distress, or death. Physical abuse may include, but is not limited to, such acts of violence as striking (with or without an object or weapon), hitting, beating, scratching, biting, choking, suffocating, pushing, shoving, shaking, slapping, kicking, stomping, pinching, and burning. In addition, inappropriate use of medications and physical restraints, pinning in place, arm twisting, hair pulling, force-feeding, and physical punishment of any kind also are examples of physical abuse.

A daughter intentionally isolates her 67 year old mother from friends and family by keeping her from having any visitors or leaving the home.

- **Psychological and Emotional Abuse** is verbal or nonverbal behavior that results in the infliction of anguish, mental pain, fear, or distress, that is perpetrated by a caregiver or other person who stands in a trust relationship to the elder. This may include any of the following: humiliation/disrespect, threats, harassment and isolation/coercive control.

A nephew makes demeaning remarks about his 85 year old aunt's intimate body parts.

- **Sexual abuse** is forced and/or unwanted sexual interaction of any kind with an older adult. This includes non-contact acts of a sexual nature such as forcing a victim to view pornographic materials, photographing an elder for sexual gratification, voyeurism and verbal or behavioral sexual harassment.

A granddaughter uses power of attorney to take \$1,000 from her 90 year old grandfather's checking account, and buys herself a new diamond ring without his permission or knowledge.

- **Financial Abuse or Exploitation** is the illegal, unauthorized, or improper use of an older individual's resources by a caregiver or other person in a trusting relationship, for the benefit of someone other than the older individual. This includes, but is not limited to, depriving an older individual of rightful access to, information about, or use of personal benefits, resources, belongings, or assets.

A sister, knowing that her 75 year old brother is unable to care for himself and angry at the burden placed on her, often is too busy and fails to give her brother his medicine.

- **Neglect** is failure by a caregiver or other person in a trust relationship to protect an elder from harm or the failure to meet needs for essential medical care, nutrition, hydration, hygiene, clothing, basic activities of daily living or shelter – which results in a serious risk of compromised health and/or safety.

What should I do if I suspect elder abuse?

- If an emergency, call 911
- Talk to someone you trust
- Get help from a social service agency
- Call an Elder Law attorney
- Go to court

If an emergency, call 911

In an emergency situation, call 911 and get immediate help. In a non-emergency, contact your local police department or another community resource listed below. Many police departments now have community police officers and domestic violence officers specially trained in dealing with abusive situations; who can arrange for regular wellness checks and connect the older adult to other community resources.

Talk to someone you trust

If the mistreatment is kept a secret and nothing is done, chances are the abuse or neglect will worsen. No matter what happened in the past, it is never acceptable for someone to hurt or mistreat an older person. Speaking up about the abuse increases the likelihood of finding someone who can help provide workable and desirable alternatives. A safety plan should be developed to fit the particular circumstances of each victim.

Whom do I contact to report elder abuse in Westchester County?

- Adult Protective Services – (914) 995-2259
- Westchester Department of Senior Programs and Services –(914) 813-6436
- Victims Assistance Services – (914) 345-9111 or (914) 345-3113
- Westchester District Attorney’s Office (Elder Abuse Unit) –(914) 995-3414
- Pace Women’s Justice Center – (914) 287-0739
- Westchester County Office for Women Helpline – (914) 995-5972

National Resources

United States Department of Justice Elder Justice Initiative.

[justice.gov/elderjustice](https://www.justice.gov/elderjustice)

The mission of the Elder Justice Initiative is to support and coordinate the Department’s enforcement and programmatic efforts to combat elder abuse, neglect and financial fraud and scams that target our nation’s seniors. The website is a comprehensive resource for both professionals and community members about national initiatives and local resources.

National Center on Elder Abuse

Phone: (855) 500-3537; ncea.acl.gov

This site provides guidance on responding to elder abuse – who to call if abuse is suspected, what to expect, prevention methods, and what can be done to stop elder abuse. Website includes a listing of statewide toll free telephone numbers to call to report elder abuse.

Call an Elder Law Attorney

An elder law attorney can help with obtaining a guardianship for the personal needs and property management of an older person, provide advice on the older person's legal rights and available remedies, or even help set up a financial plan or financial instruments to preserve/protect the older person's assets. One way to contact an elder law attorney is through references from friends, family or trusted acquaintances.

Online resources may also aid in the search for an elder law attorney:

[lawyers.findlaw.com/lawyer/practicestate/Elder-Law/New-York](https://www.lawyers.findlaw.com/lawyer/practicestate/Elder-Law/New-York)

[seniorlaw.com/elder-law-attorneys-on-the-web/](https://www.seniorlaw.com/elder-law-attorneys-on-the-web/)

Legal Interventions

Older adults can take action to stop the abuse by obtaining a Family Court Civil Order of Protection against an abuser. In New York State, Family Court has jurisdiction where the parties are or have been married, have a child in common, are or were in an intimate (can be non-sexual) relationship or are related to by blood or marriage. A civil lawyer can help discuss this option.

If abuse is financial, there are additional avenues of assistance to pursue.

Some examples of financial exploitation are where an older person is being pressured to: sign a document they don't understand, distribute money or belongings to someone they did not choose, add an unwanted name to a deed, give up control of their personal business or health care decisions, change their will, or add an unwanted beneficiary to their will or pension accounts. It is important to be aware of the risks of joint bank accounts and credit card accounts, co-signing a loan or designating someone as power of attorney.

Some organizations and resources that can provide counseling or assistance for cases of financial exploitation include:

Westchester County Department of Consumer Protection (Consumer Assistance)

(914) 995-2155; consumer.westchestergov.com/

Community Capital New York

(914) 747-8020; communitycapitalny.org/

New York State Office of the Attorney General

(914) 422-8755; ag.ny.gov

Go Direct (for direct deposit of Social Security checks)

(800) 333-1795; GoDirect.org

Women's Institute for a Secure Retirement

wiserwomen.org

The Harry and Jeanette Weinberg Center for Elder Justice at the Hebrew Home at Riverdale (a program of RiverSpring Health)

Established in 2005, the Weinberg Center is the nation's first shelter for elder abuse victims, serving eligible individuals 60 years and older. The Weinberg Center provides short-term housing, comprehensive health care, legal advocacy and therapeutic services.

Intervention

Professional referrals provide prompt access to the Weinberg Center team for consultation and assessment to determine shelter eligibility. Once admitted, each client receives individualized and comprehensive coordinated care provided by the Hebrew Home's medical and professional staff.

The Weinberg Center's multidisciplinary team develops a holistic and trauma-informed action plan based on each client's particular circumstances and goals. Civil legal services are a

cornerstone of their work, and can include obtaining Orders of Protection, representing clients in Housing Court or advocating in a guardianship proceeding.

Outreach and Training

The Weinberg Center offers a wide range of training and community outreach programs to increase professional and public awareness about the signs and symptoms of elder abuse and neglect. If you are interested in setting up a training or community outreach program, please call (718) 581-1472.

National Model

The Weinberg Center continues to foster replications of the shelter model around the country. The SPRiNG Alliance (Shelter Partners: Regional. National. Global.) is a network of elder abuse shelters with close working relationships, shared expertise, common standards of excellence and a vibrant community of support. Learn more at spring-alliance.org.

Assessment

The Weinberg Center has developed an elder abuse assessment tool to screen for at-risk and abused older adults. The screen is available to all long-term care facilities, community-based social workers, health care agencies and other programs serving older adults. If you are interested in learning more about the screen, please call (718) 581-1472.

Community Partnerships

The Weinberg Center coordinates Westchester County's Multidisciplinary Team on Elder Abuse, a group of professionals who meet monthly to develop action plans and coordinate services around complex cases of elder abuse. Since its inception in 2012, the team has addressed over a hundred complex cases of elder abuse. For more information, or to make a professional referral to the team, contact the team coordinator at Malya.Levin@theweinbergcenter.org.

Additional Resource: In conjunction with the State of New York Unified Court System, the Weinberg Center just published a comprehensive Elder Justice Resource Guide: elderjustice.nycourts.gov/Elder_Justice_Guide_Complete.pdf