

WILLMS, S.C.

LAW FIRM

MEMORANDUM

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**TO:** Clients and Friends of Willms, S.C.  
**FROM:** Jessica A. Bourke  
**DATE:** April 19, 2011  
**RE:** Protecting Against Elder Abuse and Abuse of Other Vulnerable Adults

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**Introduction**

Elder abuse is an increasingly frequent topic in the media. Perhaps most prominent among these stories is that of Mickey Rooney, the former Hollywood movie stars who has filed suit against his stepson for a litany of abuses including the withholding of food and medication, as well as financial exploitation. The American Psychological Association estimates that over 2 million elderly individuals each year are subjected to physical, psychological, financial, or other forms of abuse. Fortunately, the prevalence of this issue has led to a variety of resources aimed at either preventing or addressing abuse. This article provides information and resources for combating elder abuse and abuse of otherwise vulnerable adults.

**Identifying Elder Abuse**

Elder and vulnerable adult abuse, like domestic abuse, is often thought to be an issue that only affects individuals who are dependent on their abusers. However, the abuser is frequently someone who depends on the victim for financial or emotional support, like a child or grandchild.<sup>1</sup> Therefore, being aware of potential abuse of vulnerable adults is not

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<sup>1</sup> Betsy Abrahamson, Wisconsin's Elder Abuse and Adult At-Risk Reporting Law (2006).

only a concern in relation to very frail individuals. The Wisconsin Department of Health and Family Services outlines the indicators of both actual abuse and suspected abuse.<sup>2</sup>

#### Actual Abuse

Actual abuse is often the easiest to identify because it is abuse that is presently occurring or has already occurred. This includes physical abuse such as hitting and shoving, and psychological abuse such as calling names or threatening with physical injury. This also includes neglect, as well as financial exploitation such as stealing money or transferring assets without an individual's consent. Harassment is also a form of abuse, and can happen in person, by phone, or via email.

#### Suspected Abuse

"Suspected abuse" means that an individual displays possible indicators that they are being abused. Examples of indicators of physical abuse are not only bruises or cuts, but also weight loss or poor hygiene. A sudden onset of depression or anxious behaviors could signal psychological abuse. As for financial exploitation, the most important thing to look for is often a change in an individual's pattern of behavior. A new "friend" might be added to a will that has been the same for years, or someone who once never paid a late charge is failing to make ends meet. Personal belongings may start disappearing from a person's home.

### **Addressing and Preventing Elder/Vulnerable Adult Abuse**

A number of resources are in place to protect against abuse.

#### Mandatory Reporting Laws

Wisconsin has had a mandatory reporting law for abuse against vulnerable adults since the 1980's, and this law underwent significant updates in 2006. In particular, each county in Wisconsin has to identify a lead "elder adult at risk agency" and

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<sup>2</sup> Id.

“adult at risk agency.” These agencies are designed to receive reports of abuse, financial exploitation, and neglect. Individuals such as health care providers, social workers, and therapists are mandatory reporters of abuse. Everyone else not defined in the statutes as a mandatory reporter is a voluntary reporter, and can use a hotline number to report abuse to the responsible agency. (That number is provided later in this article.)

### Be Aware of Risk Factors and Indicators

The section above outlines signs of actual or suspected abuse. Before abuse even occurs, it is helpful to be aware of certain risk factors that might make an individual more susceptible to abuse.

1. **Consider the Caregiver.** As difficult as it is to think about, abuse of elderly or otherwise vulnerable adults often occurs at the hands of a relative or caregiver. Therefore, be aware of who is providing care to an individual. Does this person display a genuine concern for the person, aside from financial matters? Is this caregiver patient with the individual, or does the caregiver seem constantly on edge and frustrated? Keep in mind that being a caregiver is an extremely taxing job, and everyone reaches their limit sometimes. However, a habitual lack of concern for the elderly/vulnerable adult’s wishes and concerns could signal a bigger problem. The best way to address this issue is to get to know the caregiver. If they are licensed from an agency, do some background investigation. If they are a family member, be cognizant of statements that may indicate their own interests or emotions are interfering with the care of the individual.
2. **Consider the Finances.** Many elderly individuals were raised in an era when it was not appropriate to discuss financial matters, and therefore are very private in this regard. However, even if an individual is reluctant to share financial information, there are telltale signs that can indicate a problem. Is there a new

“best friend” in the picture that suddenly appears out of nowhere? Is a long-lost relative suddenly very interested in the individual’s finances? Be aware of the people in the individuals’ day to day life, and be aware of the indicators of abuse described in the above section.

### Taking Action

Given the information above, what is the best thing to do to protect yourself or your loved one from physical or psychological abuse or financial exploitation?

1. **Be Proactive.** If an at-risk individual is still mentally competent, he or she can do many things to protect from abuse. Most important is discussing wishes with loved ones and then putting them to paper. Validly-executed powers of attorney for finances and healthcare can make very clear who an individual trusts with their money and care decisions. A Durable Power of Attorney appoints the individual(s) trusted to handle money and other assets in the event that someone cannot do this on their own. A Health Care Power of Attorney does the same thing with medical decisions. In the event that a potential abuser steps in and tries to take over care or finances, these appointed agents can defend the interests of the individual who executed those documents. Additionally, having these documents in place prevent a court from deciding who is best to be making those decisions, acting as an additional safeguard for the individual. Once these agents are selected, these selections should be relayed to attorneys, financial advisors and those responsible for your medical care.
2. **Consider Guardianship.** Having validly executed powers of attorney are generally preferable to guardianship in terms of self-determination, expense and time. However, many people reach a state of incapacity without powers of attorney. The standard for establishing guardianship is that an individual must be unable to sufficiently care for themselves and protect against harm and

exploitation. If you know someone who seems to be in this situation, a guardianship may be worth considering.

3. **Reporting Hotlines.** As a result of the updated elder abuse and adult-at risk laws in Wisconsin, each county is required to have measures in place for reporting and addressing actual or suspected elder abuse. In Ozaukee County, the phone number for reporting abuse of elderly or vulnerable adults is (262) 284-8200 if calling between the hours of 8:30 a.m. and 5:00 p.m. If calling outside those designated hours, the number is simply “911.” If you reside in a different county, we would be more than happy to identify the applicable agencies and phone numbers for your area.
4. **Vulnerable Adult Restraining Order.** This is a type of restraining order that can be filed against someone who is engaging in harassing or threatening behavior towards an elderly or otherwise vulnerable individual. This requires taking the abuser to court, and can result in a formal court order preventing the person from contacting the at-risk individual. This formal order means the police can be called when the order is violated.
5. **Measures for Mentally Ill Individuals.** If abuse is occurring because of a suspected mental illness on the part of the abuser, many counties allow for what is called a “three-party petition.” This is a petition filed with the county in which the abuser resides, alleging that the abuser’s mental illness is putting himself/herself or others in danger. These claims are assessed for validity, and could result in the individual being detained in a mental health facility until a hearing is held on the matter. These petitions, if successful, can result in an individual receiving mental health treatment on an in-patient basis or on an out-patient probationary-like basis.

## **Summary**

We hope that you will take advantage of the information contained in this article to protect yourself and your loved ones from elder abuse. Like other forms of abuse and exploitation, the key is often prevention. We would be more than happy to discuss any of these concepts with you further upon request.

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