

Follow these recommendations to **SAFEGUARD AGAINST FINANCIAL ABUSE** when granting power of attorney



Carefully select the agent

Because of the potential for misuse by the person named as your agent, **selecting a trusted person is an extremely important decision**. Select someone who is responsible and competent (not just nearby).



Require an inventory of assets

Inventory your assets before your agent begins managing your affairs. This provides a baseline for later comparison. Give a copy to your attorney, financial advisor, and a trusted third person.



Require regular accountings

Someone with a power of attorney might have no oversight after the principal becomes incapacitated. **Have a second set of eyes on the assets to provide accountability**. Annual accountings should at least include an updated inventory of assets and documentation of the dates, payee, and amount of all financial transactions.



Appoint co-agents

Carefully choosing two agents can distribute the burden of responsibility and creates checks and balances, but the agents must be able to work together. Approval by a trusted third person for large transactions provides an extra step to ensure the appropriateness of large transactions, such as the sale of a home or sale or purchase of a large investment.



Limit gifting

The safest option is to **prohibit gifts**, but many people want to continue their pattern of giving even after they become incapacitated. Add a term to the power of attorney document that identifies the permitted recipients or class of recipients and limits on the amounts and frequency.

A power of attorney is a legal document used by an individual to allow someone else to act on their behalf. In the wrong hands, it can result in a financial predator stealing money or transferring assets. A **principal** grants authority to an **agent** who has a duty to act in the best interests of the principal. **Abuse** occurs when the agent spends the principal's money to benefit the agent rather than the principal.

Did You Know?

- As many as **17 percent** of Americans aged 65 or older report that they have been the victim of financial exploitation. What's more, **only one in 24 of these cases are ever brought to the attention of protective services**.
- Financial abuse and fraud costs older Americans **billions annually**.
- The **most common culprits are adult children** who have been granted power of attorney.

More Information

Abuse of power of attorney: Preventing and addressing elder family financial exploitation by Virginia Vincenti & Cole Ehmke. 2021. University of Wyoming Extension Bulletin B-1368, 25 p.

Download from www.uwyo.edu/uwe under Publications.

How can I address abuse of a power of attorney for finances?

Report Abuse

Abuse of a power of attorney is a crime. If you suspect an older person is being financially exploited, take action. Reports can be made to **Adult Protective Services (APS)** or to **law enforcement**, including police/sheriff department, Wyoming Division of Criminal Investigation, or the city/county attorney. If the situation involves misconduct by an attorney, make a complaint to the Wyoming Bar Association. If employees of a long-term care facility or hospice are abusive, report to the State Long-Term Care Ombudsman.

The more information you can provide, the more likely that abuse can be stopped and some assets recovered. To help law enforcement build a case, keep a dated log of observations, questionable comments, and facts, plus any documentation.

Criminal Acts

An agent who violates the duty owed to the principal may have committed one or more state or federal crimes, such as

- Exploitation
- Embezzlement
- Forgery
- Fraud (e.g., credit card fraud, welfare fraud)
- Larceny
- Money laundering
- Theft



Pursue Civil Actions

In addition to the actions of law enforcement or APS, you can pursue private civil actions to protect a vulnerable person from further harm.

- **Revoke legal documents including the POA** (assuming the principal is not incapacitated). Or ask a court to compel the agent to comply with the POA, perhaps subject to increased reporting requirements.
- **Ask a court to issue a temporary restraining order** to limit the contact or activities of a person with the elder, relatives or others who live together.
- **Obtain a separation or divorce** for the elder if a spouse/partner is an abuser.
- **Petition for protection orders or injunctions.**
- **Bring eviction** or other removal proceedings against an abuser who lives with a victim.
- **Ask a court to declare the principal incapacitated** and then appoint a guardian (to be responsible for the person's well-being) or conservator (to be responsible for the person's assets).
- **Seek termination** of a POA agent, guardian or conservator who is a perpetrator.
- **Hire a fraud investigator or certified fraud examiner** to gather facts and collect evidence regarding crimes.

Act to Recover Assets

- **Seek an accounting**, perhaps through a court order, of the elder's estate.
- **Pursue private legal action to recover assets**, including suing the agent to undo transactions (recession) or suing the agent for stealing (reversion).
- **Pursue a negotiation, mediation, or arbitration to recover assets.**
- **Rescind transfers or void documents due to fraud, incapacity, or undue influence.**

UW Extension Resources

www.uwyo.edu/uwe/publications

Or contact your county Extension office

UW Extension has resources on a wide range of family topics, including the series of 11 estate planning bulletins, *Planning Ahead, Difficult Decisions*, plus resources about healthy living and profitable agricultural ventures, and youth development.

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See reverse side for what a power of attorney is.