

As District Attorney, I am concerned with the amount of fraud and theft that is being suffered by our elders. Although our laws have been strengthened to help punish those who prey on our older citizens, the criminal element sees those over sixty as easy targets.

I have put together this booklet in an effort to inform our elder population, and those who have older family members, of the risks present to our senior citizens. Many of our seniors are on limited incomes, yet those who wish to take advantage of people in their advanced years will stop at nothing to leave them penniless. We must be aware of what risks are present and how to protect ourselves and our family members.

The information provided in this booklet is meant to aid you in seriously examining the risks that make us all vulnerable. Hopefully, by following some of the suggestions, you will stand a better chance of avoiding elder fraud. Much of the information provided was gathered from those who have done extensive research on the effects of fraud on the elderly. I have merely gathered together the expertise of others for this handbook.

I would urge everyone to carefully consider how you might change your lifestyles and habits to minimize the chances of someone taking advantage of you, or those you know.

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TABLE OF CONTENTS

INTRODUCTION	1
LEGALLY SPEAKING	2
TELEMARKETING AND PHONE FRAUD	4
IDENTITY THEFT OF THE ELDERLY	7
THE NEW MEDICARE DRUG PLAN	8
SCAM PREVENTION WORKSHEET	9
QUIZ FOR FAMILY MEMBER OR CONCERNED FRIENDS	11
TEN COMMANDMENTS FOR THE ELDERLY	13

A RESOURCE GUIDE FOR ELDER FRAUD PREVENTION AND VICTIM ASSISTANCE

Be Cautious - Know Your Rights - Stay Safe

The Colorado General Assembly has determined that penalties should be increased whenever a crime is committed against “at risk” adults. An example is the crime of theft committed in the presence of an at risk adult. If the value of the item taken is \$500 or less, the penalty is increased from a misdemeanor to a felony. If the value is over \$500, the felony class increases from a class 4 to a class 3. (C.R.S. 18-6.5-103(5))

WHY DO WE NEED SPECIAL PROTECTION UNDER THE LAW FOR AN “AT RISK” POPULATION?

- In passing the law protecting “at risk” adults, the General Assembly recognized that **mistreatment** is one of the major fears and concerns for the elderly.

AT RISK ADULTS ARE MORE IMPACTED BY CRIME BECAUSE THEY ARE:

- Often physically and emotionally less able to protect themselves.
- More likely to receive an injury that is serious or life threatening.
- More vulnerable – less likely to try to fight back.
- Sometimes more susceptible to being taken advantage of because of embarrassment - knowing they may not hear, think, or see as well as they once did.

REASONS CRIMES AGAINST ELDERLY GO UNREPORTED:

- Embarrassment
- Self-blame
- Relationship with the offender
- Fear of consequences if family members “find out”
- Lack of knowledge that acts are crimes
- Intimidated by criminal justice system
- Fears the crime can’t be proven
- Lack of understanding about the process
- Fear of retaliation
- Nursing home thefts - afraid of being kicked out

LEGALLY SPEAKING



Protection and Help for the Elderly

To assist an elder person in managing his or her affairs, family members may consider having a guardian or conservator appointed.

For the court to appoint a conservator, it must be proven the individual is **unable to manage** property and business affairs because the individual is unable to effectively receive or evaluate information or both, or to make or communicate decisions, even with the use of appropriate and reasonably available technological assistance. The court does not have to find that the person is incapacitated; however, there must be a finding that, if not incapacitated there is at least a functional disability sufficient to warrant the appointment of a guardian or conservator.

Before the appointment is made, the court must find that the individual has property that will be wasted or dissipated unless management is provided, or money is needed for the support, care, education, health and welfare of the individual or of individuals who are entitled to the individual's support and that protection is necessary or desirable to obtain or provide money (CRS § 15-14-401(1)(b)(II)).

Protecting an Elder from the Misuse of a Power of Attorney

A power of attorney is a written authorization giving legal authority to act for another person. The unauthorized use of a power of attorney has become a common source of elder abuse.

If you suspect an elder relative or friend is being taken advantage of by one holding a power of attorney, contact a lawyer immediately.

If an attorney suspects the person (agent) holding a "power of attorney" is abusing his or her authority, the attorney may ask a court to obtain control over the agent's actions on behalf of the elderly person. However, the attorney must show that the elderly person lacks the capacity to control or revoke the power of attorney. Presumably, the attorney must show that the elder "lacks capacity" because of an inability to manage his or her financial affairs. Psychosocial factors, such as the dependence of the elder on the agent, and possible undue influence, might be enough to satisfy the court.

If the court finds the agent has exceeded his or her authority, or his or her failure to act has caused, or threatens, substantial harm to the elderly person or his property in a manner not intended by the elderly person, the court may do one of the following:

1. Appoint a guardian or conservator.
2. Terminate the agency.
3. Or impose limitations as the judge considers proper.
Because an agent also has a duty to keep records, an attorney could obtain all of the agent's records before determining whether to ask for the appointment of a guardian or conservator.

Once a guardian or conservator is appointed by the court, he or she acts in place of the elderly person. The guardian or conservator can then review all that the agent has been doing and if the actions were inappropriate under the terms of the agreement, the power of attorney could be terminated by the guardian or conservator.

A **special conservator** may also be requested by a person close to the elderly person or by the elderly person themselves. This special conservator may be appointed to stop, or prevent, further financial exploitation, or abuse, by a family member or other acquaintance.

TELEMARKETING AND PHONE FRAUD



ACCORDING TO THE NATIONAL CONSUMERS LEAGUE'S NATIONAL FRAUD INFORMATION CENTER, nearly a third of all telemarketing fraud victims are age 60 or older. Studies by AARP show that most older telemarketing fraud victims don't realize that the voice on the phone could belong to someone who is trying to steal their money.

Many consumers believe that salespeople are nice young men or women simply trying to make a living. They may be pushy or exaggerate the offer, but they're basically honest. While that's true for most telemarketers, there are some whose intentions are to rob people, using phones as their weapons. The FBI says that there are thousands of fraudulent telemarketing companies operating in the United States. There are also an increasing number of illegal telemarketers who target U.S. residents from locations in Canada and other countries.

It's difficult for victims, especially seniors, to think of fraudulent telemarketers' actions as crimes, rather than hard sells. Many are reluctant to admit that they have been cheated or robbed by illegal telemarketers. When protecting yourself or helping others consider these five steps:

Step One in helping older people who may be targets - convince them that fraudulent telemarketers are hardened criminals who don't care about the pain they cause when they steal someone's life savings. Once seniors understand that illegal telemarketing is a serious crime—punishable by heavy fines and long prison sentences—they are more likely to hang up and report the fraud to law enforcement authorities. They can help catch the crooks and put them in jail—where they belong.

Step Two in fighting telemarketing fraud against seniors is to understand why they are particularly vulnerable. It's a myth that victims are incompetent, lonely, or isolated. In fact, AARP research shows that many older victims are active people who are simply lured by false promises of great deals or ways to add to their "nest eggs." Fraudulent telemarketers take advantage of the fact that:

- **It's difficult to tell whether someone is legitimate.** Good salespeople are convincing, but so are crooks. They use many of the same sales tactics - being friendly, getting people excited, creating a sense of urgency;
- **Seniors tend to be trusting.** Since they have difficulty imagining that some telemarketers are criminals, they're more likely to give them the benefit of the doubt;
- **It's easy to wear people down.** Seniors are targeted relentlessly - some get more than 20 calls a day from scam artists. They may also receive dozens of mailings every week asking them to call about sweepstakes and other offers;
- **We all want to believe.** Who doesn't want to win a valuable prize, take a free trip, or strike it rich on an investment? People want to believe that it's their lucky day, and may react with anger or suspicion when others question their optimism; and,
- **It's hard to hang up.** Many seniors feel that it's impolite to hang up on people. Swindlers know how to take control of the conversation and are prepared to tell any lies necessary to keep potential victims on the phone.

Step Three is helping older people recognize the “red flags” of fraud:

- **A promise** that you can win money, make money, or borrow money easily;
 - **A demand** that you act immediately or else miss out on this great opportunity;
 - **A refusal** to send you written information before you agree to buy or donate;
 - **An attempt** to scare you into buying something;
 - **Insistence** that you wire money or have a courier pick up your payment; and,
 - **A refusal** to stop calling after you've asked not to be called again.
- The common thread that runs through all telemarketing scams is the demand for payment upfront. Seniors need to know that:*
- **It's illegal for companies that operate contests or sweepstakes** to ask you to pay to enter, claim your prize, or even to suggest that your chances of winning will improve if you buy something;
 - **It's illegal for telemarketers to ask for a fee upfront** to help you get a loan, guarantee, or strongly imply, that the loans will be made;
 - **There is no reason** to give your credit card number or bank account number to a telemarketer unless you are actually making a payment with that account; and,
 - **If you have to pay first** before getting detailed information about the offer, it's probably a scam.

Step Four is to recognize when older people have been victimized or may be in grave danger and know how to help them. Seniors may be in trouble if they:

- **Receive lots of mail** for contests, “free trips,” prizes, and sweepstakes;
- **Get frequent calls from strangers** offering great deals or asking for charitable contributions;
- **Make repeated and/or large payments** to companies in other states or countries;
- **Have difficulty buying groceries** and paying utility and other bills;
- **Subscribe to more magazines** than anyone could normally read;
- **Receive lots of cheap items** such as costume jewelry, beauty products, water filters, and knick knacks that they bought to win something or received as prizes;
- **Get calls from organizations** offering to recover, for a fee, money they have lost to fraudulent telemarketers.
- **Change his or her phone number** if con artists call repeatedly; and,
- **Change his or her bank account or credit card numbers** if they have fallen into the hands of thieves.

Step Five in fighting telemarketing fraud - inform older people about how to reduce the number of unwanted sales calls and mailings they receive and how to deal effectively with telemarketers by:

- **Avoid getting on sucker lists.** Don’t fill out contest entry forms at fairs or malls—they are a common source of “leads” for con artists. Ask companies you do business with not to share your personal information with other marketers.
- **Know your “Do-Not-Call” rights.** Under federal law, you can tell a telemarketer not to call you again. For Colorado No Call listing - call 1-800-309-7041, National listing can be accessed by www.ftc.gov/donotcall or 1-888-382-1222.
- **Know who you’re dealing with.** If it’s an unfamiliar company or charity, check it out with your state or local consumer protection agency and the Better Business Bureau.
- **Screen your calls.** Use an answering machine, Caller ID, or other services that may be available from your phone company to help you determine who you want to talk to and who you want to avoid.
- **Have a plan** for speaking to telemarketers. Before you pick up the phone, know what questions you want to ask or what you want to say. Be polite, but firm. Hang up if someone refuses to answer your questions or you detect the “red flags” of fraud.
- **Know that your phone number may be collected.** When you call a company, your number can be displayed through Automatic Number Identification (ANI). If you have an account with the business, this enables the customer service representative to pull up your records and help you faster, but ANI can also be used for marketing purposes. Ask what information is being collected and tell the company if you don’t want to be put on a marketing list.

Report actual or attempted fraud to the National Fraud Information Center, 800-876-7060, M-F, 9 a.m. to 5 p.m., or at www.fraud.org. That information will be transmitted to law enforcement agencies.

(Copied from www.fraud.org)

IDENTITY THEFT OF THE ELDERLY



Another form of elder abuse is identity theft, which is increasingly common in America. Each year, thousands of Colorado citizens and businesses lose millions of dollars to identity theft. Identity theft is the unauthorized use of personal identifying and financial information for the purpose of stealing money and good credit - it has grown from a little-known crime to a billion-dollar nightmare. The Federal Trade Commission (FTC) released a survey in 2003, the results of which showed that more than 9.9 million Americans had been victims of identity theft in one year. The cost of these crimes to victims amounted to \$5 billion and the cost to businesses exceeded \$50 billion.

It is easy for thieves to gain access to an individual's personal and financial information. Not surprisingly, elderly persons are attractive targets for identity thieves. Elders are vulnerable to identity theft for many reasons. They may be alone or isolated—many live apart from family members and friends. Isolation often causes people to be vulnerable; therefore, elders might allow a stranger to have access to personal financial information simply because the stranger is friendly. Also, the financial pressures of living on a fixed income or limited budget often causes elders to look for investments that will bring more money quickly; consequently, they become exposed to scams and exploitation. Elders also might have full equity interests in their homes, receive Social Security checks, and have excellent credit. This makes them prime targets for identity theft.

To learn more about identity theft, review: **“Preventing the Loss of Your Identity”** a booklet available through the District Attorney's office at 201 LaPorte Ave. Fort Collins, Colorado, 80524 or call 970-498-7200

THE NEW MEDICARE DRUG PLAN



Do's and Don'ts

Don't be pressured into joining a drug plan “now.” If the program is valid there will seldom, if ever, be a requirement for an immediate response.

Don't pay anyone a fee to enroll.

Don't sign up for a plan by telephone unless YOU initiate the call.

Do suspect anyone who comes to your door peddling “offers” on drug coverage. Immediately call your local Police or Sheriff's Department if this happens.

Don't give out your Social Security, Medicare ID, credit card or bank account numbers to anyone who calls and asks for them.

Don't believe claims of “free” coverage, since legitimate plans, with few exceptions, have premiums, co-payments or deductibles.

Don't go alone to meet a “sales” person. Take your friends or family members along to hear the sales pitch.

Don't make payments online. You can enroll online, but plans may not collect payments on the Internet.

Do use reliable sources such as Medicare at <http://www.medicare.gov> or (800) 633-4227, and AARP at <http://www.aarp.org/medicarex>.

Do report scams and suspicious activity to Medicare and local Police or Sheriff's Department.

SCAM PREVENTION WORKSHEET

Keep this AARP checklist handy when telemarketers call. The questions will help you to determine whether a telemarketing call is legitimate or not. You also should save your notes from each call in case you develop concerns about a donation or purchase after the call.

If a caller doesn't provide satisfactory answers to your questions, hang up immediately.



1. Note the date and time of the call

Is the call before 8: a.m. or after 9 p.m.? Yes No

Hang up if the answer is yes. All organizations that follow federal telemarketing guidelines must limit their calls to this 13-hour period.

2. Has the caller fully identified the organization that he/she represents immediately after you answer? Yes No

Does the caller work for the organization itself or for a fund-raising firm? _____

Ask for, and jot down, the full name, address, and phone number of the person making the call and the organization(s) that the caller represents.

Hang up if the caller hesitates to provide any of this information. Organizations that heed federal telemarketing guidelines should immediately identify themselves.

3. Does the caller represent a charitable organization? Yes No

What is the charitable purpose of the organization? _____

Is it registered with the state (with the Secretary of State, state Department of Justice or Attorney General)? Yes No

What percentage of its total income does the charity spend on its program? _____

Don't settle for vague descriptions of the organization's activities that emphasize the problem without explaining what the charity is actually doing about it. Also, make sure that at least 50% to 60% of your donation will go toward actual charitable work---not fund-raising expenses

4. **Is the caller offering a product, service or contest of some sort?** ____ Yes ____ No

How much does the product or service cost? _____

Is the sale final or nonrefundable? ____ Yes ____ No

Does the caller seek payment prior to delivering the product or services?
____ Yes ____ No

Hang up if the caller seeks payment prior to delivery of the product or service - or if the offer does not come with a money-back guarantee.

5. **Does the caller seek cash?** ____ Yes ____ No

Hang up immediately if the answer is yes. Legitimate organizations do not seek cash payments via the phone.

6. **Will the caller send details of the charity or products/service in writing** - and therefore give you time to carefully review the offer? ____ Yes ____ No

Hang up immediately if the answer is no – or if you must act “right away.” Legitimate organizations will respect your interest in taking time to review offers prior to making a decision.

If you think you have received a SCAM, please forward the ENTIRE email to Identify Theft Resource Center (ITRC) at: itrc@idtheftcenter.org and they will forward it to the FBI for you and let you know if it is a confirmed scam.

To verify a suspected scam, the Identity Theft Resource Center recommends the following steps:

1. Contact the company involved directly, using a customer service number you find in the phone book or that you have used in the past. **THINK FIRST – ACT SECOND.** The action to take is to verify a contact by the company before responding to the email. Do not even send a “do not contact me again.”
2. Contact the FBI at www.ifccfbi.gov or your local State Attorney General’s office.
3. Contact the Federal Trade Commission at 877-FTC HELP or send it via email to: http://spam@uce.gov
4. Remember, URLs that begin with “http” are not secure. Only those that begin “https” are secure sites for sending sensitive information.
5. Avoid scams that appear to use telephone numbers in the U.S. but are expensive out-of-country numbers. If you’re not sure where a telephone number is located, use this free Area Code Decoder: <http://decoder.americom.com/cgi-bin/decoder.cg>.

QUIZ FOR FAMILY MEMBERS OR CONCERNED FRIENDS



1. How often do you visit or call the older person?

- AT LEAST WEEKLY0 points
- MONTHLY5 points
- LESS THAN MONTHLY10 points

The best way to track suspected financial abuse is to have a regular baseline with which to compare. Absence aggravates vulnerability.

2. Does the older citizen have a healthy skepticism of ads, mail or telephone offers and solicitations?

- YES0 points
- NO5 points

Trusting attitudes and a belief that an authority has prescreened ads or reviewed scripts, means vulnerability exists that can be exploited.

3. Does the older citizen know where to go for consumer protection advice or assistance? Ask them where they would call for a home improvement, insurance, investment, or telephone charge problem. Do you know the appropriate resources?

- YES 0 points
- NO10 points

Failure to report complaints by older citizens can give criminals a license to steal from other unsuspecting individuals. Consumer protection agencies work together in an effort to prevent victimization of older citizens.

4. Do you know from whom, and how, the older citizen is getting advice on financial decisions?

- YES on both0 points
- YES on one5 points
- NO on both10 points

Criminal cases involving theft by trusted advisors have wiped out the victims' life savings. Encourage the older person to seek your advice as a "second opinion" on any investment or insurance policy change recommended by an "advisor". Ask to review policies on a quarterly basis.

5. If there is a caregiver or service provider, have you met that person and do you know how he/she was referred or hired?

YES 0 points

NO5 points

Has the caretaker or service provider been thoroughly checked out? Is he/she licensed? Is the caregiver supervised by a health or management company? Workers may convince the older person to hire them directly (usually for less money) to gain access without supervision.

6. When a caregiver is in the home, does the older person appear withdrawn, apprehensive, nervous or reluctant to speak openly?

YES10 points

NO0 points

These behaviors can be indicators that the person is intimidated or afraid to ask for help.

7. Is a new individual involved in the person's life who does not seem to have a logical reason for being there?

YES10 points

NO0 points

You should politely ask about the role of the new person. Provided the older person is competent and not being manipulated, abused or controlled, you may not have any choices over the person's wishes.

QUIZ SCORING – Combined Score: Add points from both quizzes

0 – 30 The older person is probably in good shape, especially if they score low on the individual quiz.

30-50 Danger signals. It's time to gather information and think about prevention strategies, as a partnership.

50 + There is a high likelihood of victimization. Begin to take steps NOW to implement strategies to protect the at-risk person.

TEN COMMANDMENTS FOR THE ELDERLY



FIRST COMMANDMENT

ASK FOR IDENTIFICATION FROM ANYONE DOING A HOME INSPECTION.

SECOND COMMANDMENT

BE WARY OF CONTRACTORS WHO TRY TO SCARE YOU ABOUT DANGERS IN YOUR HOME.

THIRD COMMANDMENT

DO NOT WITHDRAW MONEY FROM YOUR BANK ACCOUNT AT THE REQUEST OF A STRANGER OR SOMEONE WHO CLAIMS TO HAVE AN OFFICIAL CAPACITY.

FOURTH COMMANDMENT

DO NOT HIRE UNLICENSED ROOFERS OR HOME IMPROVEMENT CONTRACTORS.

FIFTH COMMANDMENT

DO NOT CONDUCT BUSINESS OVER THE PHONE WITHOUT REQUESTING THAT ALL INFORMATION BE SENT TO YOU IN WRITING.

SIXTH COMMANDMENT

DO NOT BUY ANYTHING FOR THE CHANCE TO WIN A PRIZE.

SEVENTH COMMANDMENT

GUARD PERSONAL INFORMATION.

EIGHTH COMMANDMENT

DO NOT SIGN LEGAL PAPERS OR MAKE FINANCIAL PLANS WITHOUT OBTAINING
SECOND OR THIRD OPINIONS FROM SOMEONE WHO WILL
NOT BENEFIT FROM YOUR DECISION.

NINTH COMMANDMENT

GET AN OPINION FROM AN ATTORNEY OR CPA ON ANY MATTERS
THAT MAY CAUSE A FAMILY DISPUTE.

TENTH COMMANDMENT

PLAN FOR YOUR FUTURE BY SEEKING ADVICE FROM AN ELDER
ATTORNEY OR PLANNER.

NOTES
