

# Switching Places: How Children Can Protect Their Parents

By Sarah E. Barb—Associate Attorney, Hunsberger Law



In the last few years, the United States has started to see a distinct change in the age of the population. In 2009, over 15% of the United States population,

or almost 50 million people, were age 65 and older. Advances in medicine have increased our overall life spans significantly; however, with these advances comes a darker, more sinister development: increasing incidence of elder abuse. The Baby Boomers hold the greatest concentration of wealth and, as they age, they face a higher risk of neurological issues such as Alzheimer's or dementia. Those two factors make our older adults targets for the dishonest people in our society. In response, the California legislature created the Elder Abuse and

nightmarish cases that become part of the news cycle: the dishonest caretaker and the careless nursing home. Financial elder abuse is more subtle and sometimes harder to identify and address. WIC Section 15610.30 defines financial abuse as an incident when a person "takes, secretes, appropriates, obtains or retains" any type of personal property of an elder for a wrongful use, with undue influence or intent to defraud the elder. This definition can include everything from direct fraud by a single person to financial institutions who try to sell investments without regard for whether they make sense for the elder.

There are ways for the children of older adults to protect their parents from these horrible events. The first and easiest way is just to be observant and involved. Stay in contact and be aware of the people who are most involved in a parent's day to day life. Being perceptive can be the best way to prevent

and day to day care as if the child stands in the parent's shoes. This document not only eases the burden of paperwork and bills on an aging parent, it also provides a child access to financial statements. Thieves are less likely to try and steal when they know someone is watching them.

The Power of Attorney for health care, or Advanced Health Care Directive, memorializes a parent's wishes concerning health care and end of life choices and allows a child to be able to help care for his or her parent. Both documents provide protection and convenience for the care of an elderly or aging parent.

Finally, another potential protection against predators will often be the use of trust documents. Anyone with real estate and bank accounts should be utilizing a trust document in order to protect his or her assets from a number of potential problems, not just the probate process. With an elderly parent, a trust document can shield those assets from an unscrupulous care giver or family member who would try to have title on those assets transferred. A trust document appoints a trustee who oversees all actions taken involving the assets placed in the trust and can ensure that no fraudulent or pressured transfers occur without notice. A trust document will also smooth the way for either a surviving spouse or adult children when that aging parent passes; the trust may avoid court interference and leaves step by step instructions for wrapping up the parent's estate.

Stay alert and stay aware of what is going on in your parent's life. Our parents spend years caring for us and protecting us, it's time that we do the same for them.

## Financial elder abuse is more subtle and sometimes harder to identify and address

Dependent Adult Civil Protection Act ("Elder Abuse Act"). Two main types of abuse that fall under the Elder Abuse Act: financial abuse and physical elder abuse.

Physical elder abuse is defined by the Welfare and Institutions Code ("WIC") Section 15610.63 and includes the more commonly known assault and battery, as well as over-medicating seniors or restraining them without a legitimate reason. These are the more

people from insinuating themselves into a parent's life and causing damage. If a parent is facing the choice of a nursing home, make sure to check that facility's background and be observant of the conditions in the care home. A bad smell, noticeable spills, dirty linens and non-responsive staff members are a good indicator that this is not the place for anyone's parent.

Also, consider discussing Powers of Attorney with your parent. Powers of attorney are contracts between the person granting the power ("principal") and the person they are designating to act on their behalf ("agent") and cover two areas: asset management and health care. The Power of Attorney for asset management will allow a child to help manage a parent's finances



Donald A. Hunsberger practices law in Orange, California. He can be contacted via email at [Don@HunsbergerLaw.com](mailto:Don@HunsbergerLaw.com) or telephone at (714) 663-8000.

