

# ELDRS Update

## ***Spring Edition 2017, Volume VII, Issue 1***

*This is a publication of the Elder Law & Disability Rights Section of the State Bar of Michigan. All opinions are those of the respective authors and do not represent official positions of the Elder Law & Disability Rights Section or the State Bar of Michigan. Comments or submissions should be directed to Christine Caswell, Managing Editor, at [christine@caswellpllc.com](mailto:christine@caswellpllc.com).*

## ***A Note from the Chair***

*By Michele P. Fuller, Michigan Law Center PLLC, Sterling Heights*

ELDRS' Vice Chair Sara Schimke, of Jaffe Raitt Heuer & Weiss PC in Southfield, was awarded a scholarship from the State Bar to attend the Bar Leadership Forum 2017 on Mackinac Island in June. Congratulations, Sara!

## ***Save the Date: ELDRS' Fall Conference Oct. 4-6***

*By Angela M. Hentkowski, Steward & Sheridan PLC, Ishpeming*

*Editor's Note: This year's Annual Meeting will be held during the lunch program on Thursday, October 5, which is a change from previous years.*

The 2017 ELDRS' Fall Conference will be held October 4-6 at DoubleTree by Hilton Hotel in Bay City. This year's keynote speaker will be Blaine Brockman.

Attorney Brockman is a passionate advocate for improving the quality of life for people with special needs and the elderly. He is a member of the National Academy of Elder Law Attorneys (NAELA) and the Academy of Special Needs Planners (ASNP). He is also a member of the NAELA Special Needs Law Steering Committee and the Trusts and SNT Steering Committee. He currently serves as Vice Chair of the Ohio State Bar Association's Elder and Special Needs Law Committee and is very involved locally, serving on the Community Housing Network (CHN) in Columbus, Ohio. CHN provides permanent supportive housing for people with severe mental illness and others at-risk of homelessness. Brockman also serves on the Board of Advocacy and Protective Services, Inc., a non-profit corporation dedicated to protecting the rights of people with developmental disabilities by providing guardianship and protective services. Additionally, Brockman serves as treasurer of the board of Creative Housing, an organization that provides housing in central Ohio for people with developmental disabilities. He also served for 12 years

on the Madison County Board of Developmental Disabilities, and recently joined the board of the ARC of Ohio.

At this year's conference, there will be both intermediate sessions and advanced sessions, as well as presentations by ELDRS' own experts, including a special plenary session presented by Doug Chalgian. There are more opportunities for elder law attorneys to expand their practices into litigation, and Chalgian will talk about why you might want to make the leap, stating there is romance and magic to litigation that is rewarding in its own way.

To stay updated on registration, or to book your room, check the Events tab at [www.michbar.org/elderlaw](http://www.michbar.org/elderlaw).

### ***Basics of Florida Estate Planning for Michigan Snowbirds***

*By Raymond A. Harris, licensed in both Michigan and Florida; Buhl, Little, Lynwood & Harris, PLC, East Lansing*

With the increased number of people either moving to Florida or wintering there from Michigan, it is important to know the basics of Florida estate planning. This article will give a brief overview of the most common Florida estate planning documents and their nuanced differences from Michigan documents.

#### **Financial Durable Power of Attorney**

A Florida durable power of attorney for financial decisions (DPOA) appoints a third party to act as agent for the principal. "Durable" means that it continues to be effective if the principal loses capacity. In Michigan, a DPOA may be "springing," which means it becomes activated on an event such as the principal's incapacity. However, Florida does not allow springing DPOAs for any document executed after 2011.

Also, the agent in a Florida DPOA may only exercise enumerated powers within the document, so language stating that the agent "may perform all acts that the principal could do" is ineffective. Changes to the principal's estate plan can only be made by the agent if the principal signs or initials next to each specific power granted; the changes are consistent with the agent's duties as set forth in Florida law; and the exercise of the authority is not prohibited by any of the principal's other estate planning documents.

In Michigan, it can be a challenge to get third parties to honor a DPOA. However, Florida is much stricter about a third party's acceptance or rejection of a DPOA. A third party acting in good faith may rely on the DPOA and avoid liability for honoring it. A third party presented with a DPOA must accept or reject it within a reasonable time. Four days, excluding holidays and weekends, is presumed to be a reasonable time. If the DPOA is rejected, the reason for the

rejection must be stated in writing unless the rejection is for one of five enumerated reasons set forth at FS 709.2120(2):

1. The third party is not otherwise required to engage in a transaction with the principal in the same circumstances;
2. The third party has knowledge of the termination or suspension of the agent's authority or of the power of attorney before exercising the power;
3. A timely request by the third party for an affidavit, English translation, or opinion of counsel under FS 709.2119(2) is refused by the agent;
4. Except as provided in paragraph [2], the third party believes in good faith that the power is not valid or that the agent does not have authority to perform the act requested; or
5. The third party makes, or has knowledge that another person has made, a report to the local adult protective services office stating a good faith belief that the principal may be subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent or a person acting for or with the agent.

A third party who refuses to accept a DPOA absent one of the above exceptions is subject to a court order to mandate acceptance of the document, plus damages and costs.

Finally, a third party cannot require additional forms for the DPOA. They either must accept or reject it as is. This eliminates the practice of third parties, such as national financial companies, from imposing their own DPOA forms.

### **Health Care Surrogate**

A health care surrogate is Florida's version of a patient advocate designation. It allows the principal to appoint agents, called surrogates, to make his or her healthcare decisions when the principal is unable to do so. The health care surrogate must be signed by the principal in the presence of two witnesses, neither of whom can be the surrogate and at least one of the witnesses must not be related to the principal.

In Michigan, two doctors/healthcare professionals must certify that the principal can no longer make his or her own medical decisions. In Florida, only one doctor/healthcare professional is needed.

### **Living Will**

A living will is a document that allows the individual to express his or her desires concerning the "providing, withholding, or withdrawal of life-prolonging procedures." In Michigan, this language is contained within the patient advocate designation, while in Florida, the living will is typically a standalone document. The living will must be witnessed by two individuals, one of whom cannot be a relative.

The individual must be suffering from at least one of three conditions for the living will to be implemented:

1. A terminal condition caused by injury, disease, illness from which there is no reasonable medical probability of recovering that will cause death without treatment;
2. End-stage condition, defined as an irreversible condition that is caused by injury, disease, or illness which has resulted in progressively severe and permanent deterioration, and which, to a reasonable degree of medical probability, treatment of the condition would be ineffective; or
3. Persistent vegetative state, defined as a permanent and irreversible condition of unconsciousness in which there is (a) the absence of voluntary action or cognitive behavior of any kind or (b) an inability to communicate or interact purposefully with the environment.

### **Healthcare Proxy**

Instead of requiring a court-appointed guardian to make medical decisions, Florida allows for a “healthcare proxy.” The proxy is selected among the following people in order of priority:

1. Court-appointed guardian (if previously appointed);
2. Spouse;
3. Adult child or a majority of the individual’s adult children;
4. Parent;
5. Adult sibling or a majority of adult siblings;
6. Adult relative who has maintained regular contact and who is familiar with the individual’s wishes;
7. Close friend;
8. Social worker.

As illustrated by Terri Schiavo, a Florida woman in an irreversible persistent vegetative state, an individual should never rely on a healthcare proxy. In Schiavo’s case, her husband was appointed as her healthcare proxy, and he opted to remove her feeding tube. Schiavo’s parents disagreed that she was she would have wanted, which resulted in years of protracted litigation. The court battle most likely would have been avoided had Schiavo executed a living will.

### **Preneed Guardian Designation**

Florida does not have a separate conservatorship mechanism; instead, a “plenary” guardian will be appointed for the person and the estate. The filing of a guardianship petition suspends any DPOA in place, meaning that someone who files for guardianship may cause confusion as to who may act for the individual. However, a preneed guardian designation allows the individual to specify who he or she would want to serve as guardian should it become necessary.

The preneed guardian designation must be in writing and signed by the individual in the presence of two witnesses. The individual appointed in the preneed guardian designation will usually be the same as healthcare surrogate.

### **Last Will & Testament**

A Florida will must be signed at the end of the document by the testator in the presence of two witnesses, who must sign in the testator's presence and in the presence of each other. "At the end" means that the testator must sign last in time. The will should contain a self-proving affidavit, which is sworn to by the testator and witnesses before a notary and eliminates the need to produce the witnesses in court after the individual dies.

Michigan allows holographic wills (handwritten by the testator, signed and dated, no witnesses needed). However, Florida does not recognize holographic wills, even if the holographic will would be valid in another state.

Florida also does not recognize terror clauses, aka "no contest" clauses. Additionally, the state has restrictions on non-Florida residents serving as the personal representative under a will. If the proposed personal representative is not a Florida resident, then he or she must be the spouse, child, or other close relative of the testator.

Gifts of the testator's residence may be subject to Florida's homestead rules, which are provided for in the Florida constitution and which may have unintended consequences on the devise.

### **Trusts**

Revocable trusts in Florida are similar to Michigan revocable trusts. However, a Florida trust cannot contain a no-contest clause. Unlike a Florida will, there is no restriction on trustee residence. Gifts of the grantor's residence may be subject to homestead issues. The trust must be executed with the same formalities as a will.

## ***Legislative Update***

*By Todd Tennis, Capitol Services, Inc.*

### **Budgets Take Center Stage**

The first few months of the 2017-18 Michigan Legislative Session have focused on preparing the 2018 state budget. While the bulk of that process involves crunching numbers, a large amount of public policy decisions also go into the appropriations process. One of great interest to ELDRS surrounds the reimbursement structure for behavioral health services.

Last year, Governor Snyder surprised a great many behavioral health providers, administrators, and advocates by adding boilerplate language (the now infamous “Section 298”) to the Department of Health and Human Services budget that would have moved Michigan’s \$2.6 billion public behavioral health care system to 11 largely private for-profit Medicaid managed care organizations which oversee physical health programs. This proposed “integration” of the two systems was hugely unpopular among many behavioral health advocates, and eventually the issue was removed from the 2017 budget bill and replaced with language creating a work group to study the issue.

Fast forward to this spring: both the Interim and Final Section 298 workgroup reports, reflecting the input of over 1,700 stakeholders, overwhelmingly support retaining public management of the state’s behavioral health and intellectual/developmental disability supports and services. Despite this, both the House and Senate Appropriations Subcommittees budget bills for FY 17-18 promote privatization. The Senate DHHS budget bill calls for full privatization by September 2020, and the House DHHS budget bill has language calling for pilots that “integrate” behavioral and physical health systems under private health plans. All budget bills ultimately end up in conference committee. ELDRS’ members wishing to communicate their views on this budget issue to their state legislators should do so soon, as the Legislature is hoping to wrap up work on the FY 17-18 budget by late May/early June.

Tax reform is another policy area that may have an impact on the 2018 budget. Earlier this year, the Michigan House attempted to pass legislation to completely repeal the Michigan Income Tax over the next 40 years. The bill as introduced would have lowered the tax rate from 4.25% to 3.9% by January 1, 2018; and, subsequently, it would have reduced the rate by .1% each year for the next 39 years. The cost to the 2018 budget alone would have been over half a billion dollars, a price that proved to be too high for the House of Representatives.

The income tax bill was repeatedly amended to find enough votes to pass it through the House. In the end, the House took a vote on a bill that would have cut the tax from 4.25% to 4.05%, a reduction that still would have had a large impact on the state budget. Despite major pressure from House leaders, a dozen Republicans joined a united Democratic caucus in opposition to the bill and it was narrowly defeated.

As the appropriations process moved forward, however, it became clear that both the House and Senate were making large reductions to the governor’s budget recommendation. Most observers felt that this was an attempt to identify enough spending reductions to revitalize the tax cut that had been defeated in the House. The initial appropriations drafts passed out of the House and Senate Appropriations Committees showed cuts of over \$200 million from the governor’s initial proposal. These cuts were across the board, and included programs affecting seniors, state prisons, and food assistance.

Recently, another reason for making these budget cuts came to light. In late April, Senate Majority Leader Arlen Meekhof (R-West Olive) and Speaker of the House Tom Leonard (R-DeWitt) both called upon their caucuses to support the closure of the Michigan Public School Employees Retirement System. Such a move would shift future public school employees from a hybrid pension plan into a strictly 401(k)-style defined contribution plan. The impact on the budget stems from the costs resulting from closing a pension system to new members. Best practice accounting standards call for acceleration in the payment of unfunded liabilities, a move that would cost the state over \$500 million next year alone and billions over the next decade. By cutting funds for services in next year's budget and borrowing from the Budget Stabilization Fund, Sen. Meekhof and Speaker Leonard would be able to realize a longtime goal of ending traditional pensions for future school employees.

These are just a few of the major policy decisions that are wrapped up in the 2018 budget discussions and do not even include two of the consistently most contentious areas of every appropriations bill: education policy and road funding. Over the last several years, the Legislature has been consistent in completing the budget by June. Based on the controversy surrounding this year's process, they may be forced to push back that arbitrary deadline.

### ***Financial Exploitation of the Elderly: Preventing Elder Abuse***

*By Jane A. Bassett and Kristin A. Davis, Bassett & Associates PLLC, Ann Arbor*

Financial exploitation of the elderly is growing tremendously. A 2010 survey by the Investor Protection Trust found that 7.3 million older Americans—one in five of those over age 65—have been victims. Financial abuse of the elderly has been called “the crime of the 21st Century” by *Kiplinger's*. Anecdotes abound about lottery scams, late night calls from a purported “oldest grandchild” in trouble and needing money, the long-lost family member who accompanies a teller's favorite customer to the bank for a large withdrawal, and sudden unexplained changes in spending habits. But, what exactly is financial exploitation and what is being done about it?

The first difficulty in combating financial exploitation is a lack of consistency in definition. The scope of what constitutes financial exploitation in different scenarios varies. Lack of a common definition affects the ability to conduct research, gather data and develop laws and policies that would be effective in stopping it. At this point, there are definitions of exploitation in use with varying degrees of commonality. For example, the National Academy of Elder Law Attorneys (NAELA) defines exploitation as “taking financial advantage of a disabled or elderly victim.” The Older American's Act and Elder Justice Act define exploitation as “the fraudulent or otherwise illegal, unauthorized or improper act or process of an individual, including a caregiver or fiduciary, that uses the resources of an older individual for monetary or personal benefit, profit, or gain, or that results in depriving an older individual of rightful access to, or use of, benefits,

resources, belongings, or assets.” Each State has some version of laws that govern financial exploitation. For example, Michigan’s Social Welfare Act defines exploitation as “an action that involves the misuse of an adult's funds, property, or personal dignity by another person.” MCL 400.11

However, there is no clarification as to who is “elderly,” who is “disabled,” who is “vulnerable,” and what is “taking advantage?” Does it include a used car deal that is weighted in favor of the seller or does it have to be something more? Does it only involve a completed transaction to the disadvantage of the elderly person or does an attempted transaction count? If there is no consensus as to what transactions are exploitation, then quantifying the problem and drafting protections becomes a task akin to swinging at a piñata while blindfolded.

That being said, who is exploiting the elderly?

### **Family and Friends**

Sadly, the most common perpetrators of financial exploitation are the elderly person’s family and friends. Common illegal and abusive acts include forging checks; misuse of ATM cards or credit cards; stealing cash, checks, or personal items; adding a name to a bank account or transferring assets; identity theft; misuse of a power of attorney; and intercepting income such as Social Security or rent checks. Anecdotally, there are several common characters to watch for:

- **The Scoundrel** - Takes things on the sly, lies to, or bullies the elderly person.
- **The Martyr** - Guilts his or her way into getting what he or she wants, telling the elderly person things such as, “I’m the only one who takes care of you. I have given up everything to be here. No one else even calls. Why would you want to do anything for them?”
- **The Fortune Teller** – These people justify theft by telling themselves, “Mom would want me to have it. It will be mine someday anyway,” or “Dad would want to see me use the money while he is here to enjoy it. He won’t live much longer anyway.”
- **The Borrower** - This person gets into the dangerous habit of using the elderly person as an ATM machine. “I’m just going through a rough patch. I’ll use the POA to borrow some money and put it back before they know it’s gone.”
- **The Entitled** – Has a chip on his or her shoulder due to unfair treatment of siblings, and is seeking to make things right. “Thirty years ago, they gave my brother money to buy a new house. Now it’s my turn,” or “I’m always doing something for them. I deserve it.”

### **Caregivers**

Caregivers have easy access to the elderly person, which can sometimes lead to exploitation.

- **Do-gooder volunteer/Crossing the line** - This is a caretaker who forms an inappropriate attachment to the elder. This person behaves as a pseudo or substitute child, ingratiating the elder to the exclusion of others.
- **Opportunists** - The opportunist may take things that he or she sees sitting out around the elderly person's home. "Hmmm, that's a pretty ring" or "There's the checkbook." Sometimes the theft is much less obvious, such as, a caregiver who is grocery shopping for the elderly person and adds a few extra items to the list. Another example is the caregiver who is instructed to take out \$20 from the ATM, but instead takes out \$40, "just in case I need some gas for the car."
- **Positioners** - This is a predator who targets the "right" situation to become a caregiver. The Positioner systematically cuts out natural supports and insidiously inserts wedges between the elderly person and family and friends. This can result in total isolation for the elderly person.

### **Remote offenders**

Remote offenders are sometimes scammers and sometimes legitimate businesses that exploit the elderly person, usually by mail or telephone. These include sweepstakes, lotteries, letters or calls claiming to be from the IRS or Medicare, and calls from the person's "oldest grandchild" claiming to be in trouble with the law and needing money. They might also include legitimate non-profits and businesses who market to the elderly and who use very little of the money for programming. These mailings often use scare tactics or emotionally charged topics such as Social Security and Medicare collapsing, invasion of the United States, military or first responders' funds, or abuse of children or animals, complete with graphic photographs. Even organizations that have good reputations can be heavy handed in the content and frequency of their solicitations.

### **Risk Factors**

Risk factors that can make an elderly person more vulnerable to falling victim to financial exploitation include:

- **Diminished Capacity** - Elderly people with diminished capacity may find it difficult to process information to discern facts from lies. They may be easily influenced. They may not be able to find the words to explain what happened, or they might not be able to remember the event or to report it.
- **Illness** - Elderly people suffering from illness may be in too much pain or too frail to be attentive. They may be taking medications that affect their judgment and may be unable to summon help. There may be so much reliance on their caregiver that they would not have access to essential services if the exploiting caregiver leaves. Often, in this

situation, the elderly person is not provided bank statements and has no way to access them without help.

- **Isolation** - Being cut off from family and friend feeds the illusion that the perpetrator is the only one who cares. This provides opportunity for the perpetrator to psychologically “work” the victim.
- **History of Domestic Violence** - An elderly person who was a victim of domestic violence may react differently to attempted exploitation. A victim of domestic violence learns to avoid a violent reaction (whether or not there is a present threat). The victim may suffer from post-traumatic stress disorder (diagnosed or undiagnosed). Sadly, the elderly person may continue to be at risk of domestic violence.

### **Red Flags**

Signs of elder abuse and financial exploitation may be subtle. Signals to be aware of include:

- Changes in the elder’s behavior
- Bruises, fractures, increase in falling, or signs of physical neglect or abuse
- Changes in level of isolation
- Insistence from the caregiver that he or she be present during the visit or screening calls
- Sudden interest in providing care by a formerly disinterested family member or new friend
- Changes in the spending habits of the caregiver
- Changes in how the elder reacts or what he or she says compared to prior patterns
- Change in the living conditions of the elder
- Changes in the household – items missing, furniture moved, a chaotic environment chaotic
- Overdraft notices from the bank or late billing notices
- The elder being secretive about mail or phone calls
- Someone else signing checks
- Change in pattern of handling finances – ATM use for someone who never used the ATM
- Elder asking to see a lawyer

While these signs may not always mean that the elder is the victim of abuse, they do warrant some investigation into whether the person is being exploited in some way. When faced with a situation in which an elderly person may be abused, it is important to contact the authorities, and avoid punishing the victim. Conservatorships and guardianships should only be used when truly necessary.

## **The Importance of Research**

More research is necessary to generate the resources, focus the attention of the officials, and understand how to combat the problem. Barriers in the reporting and data collection process include embarrassment and cognitive decline that affect the ability to understand the nature and extent of exploitation and follow through on reporting it. To make matters worse, there is a lack of consistency in police and prosecutorial policy and training, and a lack of coordination between agencies. Even the definition of what constitutes financial exploitation is not consistent.

Prior research focusing on financial exploitation includes:

- **Investor Protection Trust Elder Fraud Survey, 2010** - This survey paints a grim picture, with 20 percent of Americans aged 65 or older—more than 7.3 million senior citizens—self reporting that they already have “been taken advantage of financially in terms of an inappropriate investment, unreasonably high fees for financial services, or outright fraud.”
- **MetLife Mature Market Institute study, 2011** - This study consisted of a review of the scholarly and professional literature and an in-depth analysis of newsfeed articles. It found the estimated annual financial loss due to elder financial abuse to be at least \$2.9 billion, a 12% increase from the \$2.6 billion estimated in 2008. The study also found that instances of fraud perpetrated by strangers comprised 51% of the articles. Reports of elder financial abuse by family, friends, and neighbors came in second, with 34% of the news articles, followed by reports of exploitation within the business sector (12%), and Medicare and Medicaid fraud (4%).
- **2015 White House Conference on Aging** - The White House holds a Conference on Aging every decade, which was started in 1961, to identify and advance actions to improve the quality of life of older Americans. The 2015 Conference addressed several topics, including strategies to reduce elder abuse through a coordinated response and public education and awareness, the necessity of increasing research on elder abuse and services, and what legislation can help to address elder abuse.

## **Legal and Practical Tools**

- **Older American’s Act** - This act provides funding for services to the elderly such as the Area Agency on Aging, Meals on Wheels, and other community resources. The Act does not provide directly for funding to curb elder abuse; however, it does have community resources and contacts help to curb isolation, provide a contact point for vulnerable adults, and allows opportunity for observation and reporting.
- **Nursing Home/State Licensing Regulations** - In all states, there are separate elder abuse laws for residents in long-term care facilities. If the state licenses the facility, it could

lose its license if there are violations. There are also federal nursing home regulations that prohibit abuse and exploitation in long-term care facilities.

- **Adult Protective Services** - This is a function of the Michigan Department of Health and Human Services. Adult Protective Services (APS) takes reports and investigates. If a person is vulnerable and being exploited, then APS files a petition for guardianship or conservatorship with the probate court.
- **Michigan Mandatory Reporting Laws** - Mandatory reporting laws in Michigan require certain groups to report reasonable suspicion of elder abuse to designated authorities or to the appropriate county department of social services. Mandatory reporters include those employed, licensed, registered, or certified to provide health care, education, social welfare, mental health, or other human services; an employee of an agency licensed to provide health care, education, social welfare, mental health, or other human services; a law enforcement officer; or an employee of the office of the county medical examiner. The county department then has a duty to report any criminal activity to a police agency. See MCL 400.11a.
- **Criminal prosecution** - In rare cases, financial exploitation will result in prosecution. In Michigan, the use of fraud, deceit, misrepresentation, coercion, or unjust enrichment to obtain or use a vulnerable adult's money or property is a criminal act. The benefits to prosecution are that it segregates abusers from society, provides oversight of their activities, and may act as a deterrent to financial exploitation and elder abuse. Michigan provides for escalated sentences for theft from a vulnerable adult. (See MCL 750.174a)

Other efforts to focus on education, data collection, evaluating laws, and formulating recommendations include the Senate Special Committee on Aging, the National Adult Protective Services Association, the Elder Justice Coordinating Council, the Elder Justice Act, Senior Safe, and Elder Investment Fraud and Financial Exploitation (EIFFE) Prevention Programs.

- **Senate Special Committee on Aging** - The Special Committee on Aging serves as a focal point in the Senate for discussion and debate on matters relating to older Americans. Often, the Committee will submit its findings and recommendations for legislation to the Senate. In December 2016, the committee held a hearing to explore financial exploitation by guardians. The committee found that “in addition to robbing seniors of their hard-earned savings, financial abuse of older adults often puts seniors’ health and safety at risk. The scope of this form of exploitation is broad and can be perpetrated by a range of fiduciaries, such as a court-appointed guardian, a family member with power of attorney privileges, or a senior’s personal attorney. In addition, senior financial abuse can be committed by ‘friends’ or family members who are handling the victim’s affairs informally.”

- **National Adult Protective Services Association** - Adult Protective Services (APS) is a social services program provided by state and local governments nationwide serving seniors and adults with disabilities who are in need of assistance. APS workers frequently serve as first responders in cases of abuse, neglect or exploitation, working closely with a wide variety of allied professionals, such as physicians, nurses, paramedics, firefighters, and law enforcement officers.
- **Elder Justice Coordinating Council** – A government working group consisting of members of the Department of Justice, Health and Human Service’s Administration for Community Living, and the Consumer Financial Protection Bureau’s Office for Older Americans, who have teamed up to gather data and create materials for professionals and family members.
- **Elder Justice Act** (Pub. L. 111-148, 124 Stat. 119). The Elder Justice Act is a part of the Affordable Care Act. The act focuses on education and research through the following actions:
  - Creates the Elder Justice Coordinating Council
  - Creates the Advisory Board on Elder Abuse
  - Creates six Elder Abuse, Neglect, and Exploitation Forensic Centers
  - Provides resources and training for long-term care facilities and workers
  - Secures funding for adult protective service offices
  - Funds long-term care ombudsmen programs and evaluation of programs
  - Requires the Dept. of Justice to study, evaluate current laws, and provide grants to state and local law enforcement for training in elder abuse. One result of this is the DOJ website on elder abuse, <https://www.justice.gov/elderjustice/>
  - Mandatory reporting by long-term care facilities of elder abuse
  - A nationwide database for background checks of employees by long-term care facilities
- **Elder Investment Fraud and Financial Exploitation (EIFFE) Prevention Programs** - A program developed by a nonprofit, Investor Protection Trust, to train healthcare professionals and lawyers to identify and report elder financial abuse.
- In support of the Elder Justice Act and the efforts of the Elder Justice Coordinating Council, the Chief of Staff, the Social Security Administration, and Office of the Commissioner have released a training program to assist in combating exploitation, [https://www.ssa.gov/payee/rp\\_training2.html](https://www.ssa.gov/payee/rp_training2.html)
- **American Society on Aging** issued a Message to the President on Aging Policy which can be found at <http://www.asaging.org/blog/message-president-aging-policy>

In 2017, the Department of Justice will be releasing a solicitation for \$3.25 million in grants to address elder abuse and financial exploitation which can be found at <https://www.grantsnet.justice.gov/programplan/html/Solicitations.htm>.

The financial exploitation of the elderly is a complex issue. While, prosecutions can help to deter potential exploiters and keep others from being victimized, once the scam is complete, the damage to the victim is done and often cannot be reversed. The best scenario is to prevent the exploitation from happening. Prevention is achieved through education, research, and vigilance on the part of the public and those working closely with the elderly.

## ***Calendar of Events***

*By Erma S. Yarbrough-Thomas, Neighborhood Legal Services Michigan Elder Law & Advocacy Center, Redford*

### **ELDRS – [www.michbar.org/elderlaw](http://www.michbar.org/elderlaw)**

- June 3 - ELDRS Council Meeting, State Bar of Michigan, 306 Townsend, Lansing, 10 a.m.
- Aug. 5 - ELDRS Council Meeting, Steward & Sheridan PLC, 205 S Main St, Ishpeming, 10 a.m.
- Sept. 2 - ELDRS Council Meeting, State Bar of Michigan, 306 Townsend, Lansing, 10 a.m.
- Oct. 4-6, ELDRS Fall Conference, DoubleTree by Hilton Hotel in Bay City, One Wenonah Park Place
- Oct. 5 – ELDRS Annual Meeting, DoubleTree by Hilton Hotel in Bay City, One Wenonah Park Place, 12 noon

### **NAELA – [www.naela.org](http://www.naela.org)**

- May 18 - Asset Protection Planning for Blended Families, Webinar, 1-2 p.m. EDT
- May 24 - Michigan Chapter Webinar: Top Things Your Broker Doesn't Want You to Know, 12-1:30 p.m. EDT
- June 16 - Stetson Series-TBD, "Practicing Proficiently: The Small/Solo Office Series"
- August 17-19 - 12th Annual Council of Advanced Practitioners Conference, Ritz Carlton Chicago

### **ICLE/SBM – [www.icle.org](http://www.icle.org)**

- May 17 - Experts in Estate Planning: Drafting Trusts to Optimize Income Tax Results, Acme (Live)
- May 18-20 - Probate & Estate Planning Institute, 57<sup>th</sup> Annual, Acme (Live)
- June 16-17 - Probate & Estate Planning Institute, 57th Annual, Plymouth (Live)
- June 22 - Drafting an Estate Plan for an Estate Under \$5 Million, Plymouth (Live)
- Sept. 14-15 - Elder Law Institute, 3rd Annual, Plymouth (Live)

- Sept. 15 - Completing the Medicaid Application: A Hands-On Workshop, Plymouth (Live)
- Sept. 26 - Drafting an Estate Plan for an Estate Under \$5 Million, Plymouth (Live)
- Oct. 12-14 & Oct. 27-28 - 40-Hour General Civil Mediation Training, Plymouth (Live)