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Elder and Incapacitated Adult Abuse

Each year, many elders and younger adults who are incapacitated are victims of mistreatment by family members, by persons who are responsible for their care, and by others. The term “abuse” is used to describe the act of intentionally hurting someone. Abuse can take many forms. It may be sexual abuse, financial exploitation, emotional abuse, or confinement. Abuse may involve physical violence or the deliberate neglect by a caregiver of the medical, health, and nutritional needs of a vulnerable person. **Abuse and neglect of an incapacitated person is a crime.** In Virginia, it is also a crime (larceny) for anyone to take money or other things of value from a person who they know, or should know, suffers from mental incapacity. The crime occurs when taking advantage of that mental incapacity with the intent to permanently deprive that person of the money or property.

Signs of abuse

Abuse is often made evident by the following signs:

- Unusual or unexplained bruises and injuries;
- Injuries that have not been cared for properly;
- Signs of confinement;
- Poor hygiene;
- Dehydration or malnourishment;
- Fear, anxiety or depression;
- Withdrawal;
- Hesitation to talk openly

Additionally, the following caregiver behaviors may indicate that a person is abusing or neglecting a vulnerable person:

- Not permitting the person to speak for themselves;

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- Not allowing the adult to visit alone;
- Indifference or anger toward the vulnerable person;
- Previous history of alcohol or drug problems;
- Threatening or insulting the vulnerable person.

Financial exploitation may be indicated by:

- Unusual activity in bank accounts, such as the withdrawal of large sums of money;
- Personal belongings such as art, silverware or jewelry missing;
- Exploiter having a power of attorney, when the vulnerable person was not competent to give one;
- A refusal by the exploiter to spend money on the vulnerable person for health or welfare;
- Checks and other documents being signed, when the vulnerable person is unable to write;
- The loaning by the vulnerable person of a large sum of money without adequate documentation, or
- Hiding the vulnerable person from view.

Preventing Abuse

Vulnerable adults can help protect themselves from abuse by taking the following precautions:

- Become aware of resources for seniors and incapacitated adults in your community.
- Don't be isolated; stay in touch with as wide a range of people as possible,
- Make regular visits to a trusted physician and let him or her know your concerns and desires regarding possible health or social problems,
- Consider using your community resources rather than depending on an individual caregivers if you feel vulnerable to exploitation,
- Put your wishes in writing regarding finances and personal care,
- Do not sign anything that you don't understand. Get help from a lawyer, social worker or other advisor.

Reporting Abuse

There are laws which protect the elderly and incapacitated from abuse. However, these laws are of little use if incidents of abuse remain unreported. Anyone who suspects abuse may report it. Virginia law requires certain persons ("mandated reporters") to report suspected abuse, neglect or exploitation. These include:

- Physicians, including hospital residents and interns;
- Persons employed in the nursing profession;
- Persons employed by a public or private agency or facility and working with adults;

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- Persons providing full-time or part-time care to adults for pay on a regularly scheduled basis;
- Social workers
- Mental health professionals, and
- Law-enforcement officers.

If you are aware of any signs of abuse in a neighbor, friend or relative, or suspect abuse in a nursing home or long-term care facility, you should immediately contact your local Adult Protective Services office or the Virginia Coalition for the Prevention of Elder Abuse (VCPEA Hotline (888) 832-3858). The Department of Social Services, Adult Protective Services, in Richmond may also be able to help, (804) 692-1264.

Will anyone know who reported?

Anyone who reports suspected abuse, neglect or exploitation is protected two ways:

- Immunity from civil or criminal liability if the report was made in good faith; and,
- The information gathered will be held confidential by the local department of social services. The name of the person who made the report cannot be revealed unless the person gives permission or the court orders that the name be revealed. You do not have to give your name when you make the report.

What happens when a report is received?

- A social worker will conduct a prompt and thorough investigation in order to determine the need for Adult Protective Services.
- A private interview will be conducted with the adult, as well as interviews with people and agencies who may know about the adult's situation.
- To the extent that they are capable, adults participate in the planning and decision-making regarding the care and services needed.
- Adults are helped to remain as independent as possible.
- Adults are free to accept or refuse the help which is offered.
- If the adult lacks the capacity to consent to receive Adult Protective Services and other alternatives have been explored and found not appropriate, the court may be asked to order the services necessary to protect the adult.

What are Adult Protective Services?

Adult protective services are provided, regardless of the person's income or financial resources, to persons 60 years or older, to adults who are incapacitated and who are 18 years or older, and to their families when appropriate. Vulnerable adults who receive protective services may live:

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- Alone;
- With relatives;
- In nursing homes;
- Homes for adults;
- Hospitals;
- Group-care facilities, or;
- With people to whom they are not related.

Adult Protective Services include:

- Investigation of reports that an adult is, or is at risk of being, abused, neglected or exploited;
- Providing a wide variety of health, housing, social and legal services to stop the mistreatment and prevent further mistreatment, and
- The ability to intervene legally to provide essential protection to vulnerable adults who are in emergency situations and lack the capacity to consent to services.

APS will also refer matters, as appropriate, to the proper licensing, regulatory, or legal authority for administrative action or criminal investigation.

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Free Legal information by Web and Phone: www.vlas.org and
1-866-LegalAid (534-5243)

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