

# Warning Signs and Response to Financial Exploitation, Abuse, Neglect of Older Adults

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State Employees' Credit Union



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## Overview

- Learn to identify signs of abuse, neglect and financial exploitation
- Discuss centralized reporting
- Discuss proactive solutions
  - Estate planning
- Discuss raising awareness among branch and operations personnel




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## Background/Development

- Initiative: to guide, support and assist members ages 60+
- Guidance through financial issues concerning older members
- Support of members in times of need
- Assistance with protecting assets



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## Milestones

- Implemented Emergency Contact system
- Developed OWLS Document Library
- Money Smart for Older Adults Curriculum
- Developed procedures for Reporting Financial Exploitation of Older Adults
- Raised awareness during Elder Abuse Awareness Month
- Created Fiduciary Resource Guides
- Trust Fiduciary Services



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## Employee Resources

- Internal Document Library
  - Easily accessible
  - Member Facing
- Employee resource documents
  - Emergency Contact Procedures
  - Talking with Older Members



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## Member Resources

- Death of a Loved One
- Health Care
- Social Security
- Lending
- Abuse of Adults



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## Fiduciary Resource Guides

- Fiduciary Resource Guides
- Agents on Powers-of-Attorney
- Representative Payees Appointed by the Social Security Administration
- Federal Fiduciaries Appointed by the Department of Veterans Affairs
- Guardians Appointed by the Clerk of Superior Court in North Carolina
- Personal Agents on Credit Union Accounts
- UTMA Custodians in North Carolina



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## Statistical Information

- Aging population:
  - Ages 60 and up encompass a large percentage of state population (e.g. 21% in North Carolina)
  - By 2019, it is estimated that there will be more people over the age of 60, than under the age of 18



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## Aging Challenges

- Chronic disease (e.g., heart disease, cancer, diabetes, obesity)
- Hearing impairment
- Vision loss or decline
- Ambulatory decline (decreased ability to move oneself)
- Cognitive decline
- Independent living difficulty
- Loneliness



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## Aging Effects

- Memory loss
- Misunderstanding and confusion
- Vulnerability
- Susceptibility to scams
- Isolation
- Loss of self-esteem and confidence
- Depression



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## Income and Expense Consideration

- Primary income sources of older adults
- Social Security – 93%
- Retirement – 48%
- Earnings/Wages - 34%
- Primary expenses of older adults
- Household
- Medical bills/medicine



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## Potential Red Flags

- Abuse
- Unexplained bruises/fractures
- Neglect
- Self-neglect
- Caretaker neglect
- Financial Exploitation
- Inconsistent account activity
- Unknown individuals exhibit unusual interest in our member's finances




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## Definitions

- N.C. Gen. Stat. § 108A-101. Definitions
- The word "**abuse**" means the willful infliction of physical pain, injury or mental anguish, unreasonable confinement, or the willful deprivation by a caretaker of services which are necessary to maintain mental and physical health.
- The word "**neglect**" refers to a disabled adult who is either living alone and not able to provide for himself or herself the services which are necessary to maintain the person's mental or physical health or is not receiving services from the person's caretaker.
- The word "**exploitation**" means the illegal or improper use of a disabled adult or his resources for another's profit or advantage.



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## SECU's Responsibility

- North Carolina is an 'any person' state
  - Everyone has a duty to report suspected abuse
  - Applicable state laws apply
- Financial institutions have a duty to report and are given 'safe harbor' to do so
- Reporting is centralized through the Trust Services department




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## Reporting Suspicions

- Centralized Reporting
- Trust Services
  - Database
    - Purpose
    - Statistics
- Gather information regarding adult's situation
- Discuss suspicions with Trust Services
- Receive guidance for next steps



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## Potential Next Steps

- Continue monitoring the situation?
- Call the Emergency Contact?
- File a Suspicious Activity Report?
- Trust Services may contact appropriate authorities :
  - Adult Protective Services
  - Local Law Enforcement



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## Monitor the situation

- Do we need more information in order to determine if a report is needed?
- Are there other employees at the Credit Union who may be able to provide additional information about this member's situation?
- Is the member able to handle the situation on their own?
- Did the member seem to have a reasonable explanation for the suspicious activity?



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## Emergency Contact

- Potential emergency contacts?
  - Spouse
  - Parent / Child
  - Friend
- Fiduciary (Attorney-in-fact, Personal Agent, etc.)
- Verify member contact information is up to date
  - Physical address and phone number
- Gather and enter information to PRF0 or Margo Platform
- Successful methods of collecting information
- When to call
- What to say




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## Adult Protective Services (APS)

- Direct verbal report made by Trust Services
  - Verbally provide helpful information when making reports to APS and law enforcement
- Legal Services' assistance
  - Obtain member records
    - Member consent
    - Court order
    - Subpoena process



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## APS Screening and Evaluation

- Screening process
  - Adults older than 65 (statutory)
  - Disabled adults of any age
  - Physical or mental incapacity
  - In need of protective services
  - Our goal is for the member to be 'screened in'
- Timing of evaluation/investigation
  - 24 hours to make screening decision
  - If 'screened in'- 3 days to make contact with the adult
  - 45 days to evaluate the situation



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## Law Enforcement

- Similar process to APS Reporting
  - Direct verbal report made by Trust Services
  - Verbally provide helpful information when making reports to law enforcement
  - Request a wellness check
- Legal Services' assistance
  - Obtain member records
    - Member consent
    - Court order
    - Subpoena process
- Photo Requests – if necessary



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## Is this a 911 Emergency?

- When to dial 911
- Health Concerns
  - Active heart attack, signs of stroke, etc.
  - Threat of self-harm or suicide
- Active threat to branch
  - Member and/or perpetrator is causing a disturbance in the branch



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## How to Help

- Help members in need
- Estate planning solutions
- Provide resource documents to educate members
- Go the extra mile



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## Employees' Roles

- Do not over-assist the member to his/her detriment
- Do not break the rules to “help” the member
- Do not become a substitute spouse, parent, child or friend
- Do not assume the duties of a Guardian or a Representative Payee (or any other fiduciary role outside the scope of financial institution)
- Do not assume the duties of a caretaker



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## Enhancing financial well-being

- Sources of income:
  - Earned Income
  - Social Security/Pension
  - Annuities
  - Retirement accounts
  - Lifetime Accumulation/ Personal Savings



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## Financial Advisory Services

- IRA & Investment Services
- Insurance Services
- Tax Preparation Services
- Trust Services
- MEMBERS® Trust Company
  
- Subsidiaries of SECU
  - Credit Union Investment Services
  - SECU Life Insurance Company



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## Trust Representative Network

- Partnership with MEMBERS® Trust Company
  - Credit union owned
- 504 Trust Representatives statewide
  - Extensive training



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## Role of a Trust Representative

- Estate Planning
  - Simple and Complex
  - Corporate Trustee and Executor Services
- Local Resource for member referrals from area branches
  - Estate Planning Essentials Program OR
  - Complex Estate Planning scenarios
- Ongoing training/promotion of Trust Services
  - FSO Referrals - Estate Planning Essentials Program
  - Community Presentations
  - FSO training (Life Stages & Estate Basics)
  - FAS Referral Training (Non-Traditional Products)



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## Role of a Trust Representative

- Discussing Estate Planning with members
  - No cost
  - Unbiased advice
    - » Complex situations
    - » Estate Planning Essentials Program
  - Back-office support
- Providing Corporate Trustee & Executor Services
  - Local resource for area branches
  - Ongoing relationship manager



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## Estate Planning

- Distribution of assets upon your death
- Designating to whom you leave your retirement accounts and/or life insurance upon your death and making sure this corresponds with your overall estate plan
- Making provisions for a trust for minor children, to prevent funds from being distributed as a lump sum at age 18



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## Incapacity Planning

- Physical or mental inability to manage one's affairs
  - Caused by injury, dementia, and other illnesses
- Differs from “incompetence” – a legal term used by courts in guardianship proceedings
- Who speaks for you when you cannot speak for yourself?



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## Protecting with an estate plan

- Will
  - Corporate Executor
  - Trust provisions, if necessary
- Trust
  - Incapacity planning
  - Corporate Trustee
- Advance Health Care directives
  - Health Care Power of Attorney and Living Will
  - HIPAA Authorization
- Durable Power of Attorney
- Will substitutes/beneficiary designations coordinated with overall estate plan



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## Will

- Why do you need a Will?
  - To ensure your property is passed according to your intentions
  - Nominate an Executor
  - Nominate Guardians for minor children
  - Include trust provisions, if necessary
- Will substitutes/beneficiary designations coordinated with overall estate plan



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## Choosing Your Executor

- An Executor
  - Can they handle complexities associated with collecting assets, paying bills and filing inventories and accountings in a timely manner?
  - Would this be too much for a family member or friend to handle
  - Family Dynamics
  - Outliving the named individual
- SECU as Corporate Executor



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## Corporate Executor Services

- SECU as Corporate Executor
- \$100,000 minimum balance
  - Probate Assets (or Corporate Trustee of RLT upon death)
  - Investable assets
  - Value of real estate not included
- 3-5% of probate assets, depending on complexity of the estate settlement



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## Choosing Your Trustee

- A Trustee
  - Managing and investing trust assets
  - Filing accountings, maintaining records and paying bills
  - Managing the needs and expenses of the beneficiaries
  - Maintaining real estate owned by the trust
- SECU as Corporate Trustee



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## Corporate vs. Individual Trustee

- Avoids family conflicts / disagreements
- Unbiased third party administration
- Expertise in trust administration
  - Important for Special Needs Trusts
- Subject to supervision and regulation
- Perpetuity of corporation
  - Individual may die/become incapacitated
- Professional asset management



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## Trust Services Disclosure

- *Trust Services offered through MEMBERS<sup>®</sup> Trust Company, a federal thrift regulated by the Office of the Comptroller of the Currency. Trust products are not credit union deposits, are not insured by the NCUA or any other federal government agency, are not obligations of or guaranteed by the credit union, MEMBERS<sup>®</sup> Trust Company or any affiliated entity, and involve investment risks, including the possible loss of principal. The material above is for educational purposes only and is not intended to provide legal or tax advice regarding your situation. For legal or tax advice, please consult your attorney and/or tax professional.*



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## Agents under Powers of Attorney

- Power of Attorney: A document in which you grant someone the Legal authority to act on behalf.
  - Principal: Creator of the POA; the principle gives another person legal authority to act on his or her behalf through the document.
  - Agent the individual named in the POA document to handle the principal's affairs
  - POA Revocation:
    - Automatically terminates at principal's death
    - Written revocation
    - Other method specified by the document



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## Advance Health Care Directives

- Health Care Power of Attorney and Living Will
  - Allows you to name an agent who can make medical decisions for you if you are unable to speak for yourself
  - Allows you to specify what type of life-sustaining medical treatment you receive when there is no hope of recovery
- HIPAA Authorization
  - A federal law that protects the privacy of a patient's health care information. Medical records must be kept confidential and can only be disclosed to specific authorized individuals.



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## Estate Planning Essentials Program

- **Purpose**
  - SECU's goal is to provide education and comprehensive estate planning services to our members
- **Predetermined Price**
  - Experienced estate planning attorneys offer simple estate planning documents at a predetermined price.
- **Accessibility**
  - A two-hour session in a local Credit Union branch with an attorney to discuss and execute estate planning documents



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## Estate Planning Essentials Program

- How much?
- Predetermined price
  - \$275 - Individual
  - \$375 - Married couple\*
    - \*must have substantially similar plans prepared at the same time
- How to offer?
  - Meet with a Trust Representative to discuss planning and schedule appointment



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## Estate Planning Essentials Program

- Will
  - May include trust provisions
  - **DOES NOT** include a Living Trust
- Power of Attorney
  - Durable
  - Springing?
- Advance Health Care Directives
  - Health Care Power of Attorney & Living Will
  - HIPAA Authorization



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## Estate Planning Essentials Program Disclosure

- *Attorneys participating in the Estate Planning Essentials Program are not employees or agents of the Credit Union (SECU, LGFCU or NCPAFCU), MEMBERS<sup>®</sup> Trust Company or any affiliated entity. SECU Trust Representatives are not employees or agents of the participating attorneys. The Credit Union and MEMBERS<sup>®</sup> Trust Company are not providing legal services and are not responsible for the services provided by these independent professionals. The Estate Planning Essentials Program is an optional program for members. Credit Union Members have the option to use an attorney participating in the program or select their own attorney.*



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## Being Proactive

- Identify solutions to help members being financially exploited
- Refer to a Trust Representative
  - Estate planning – Simple or Complex
- Estate Planning Essentials Program
- Corporate Fiduciary Services
- Ongoing Training Initiatives
- Raising Employee awareness



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## Ongoing Training Initiatives

- Raising Employee awareness
  - In-person workshop trainings
    - Available to all employees
    - Interactive classroom setting
    - Taught by branch and Trust Services' employees
    - Identify key triggers to spot financial exploitation, abuse and neglect of Credit Union members
- E-Learning Course
  - Required training for all employees
  - Online module



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## Key Takeaways

- Cases of financial exploitation, abuse or neglect of Credit Union members
  - Trust Services
    - Centralized reporting
  - Refer to a Trust Representative, if applicable
    - Estate Planning solutions
    - Corporate Fiduciary Services
  - Ongoing training initiatives to raise employee awareness
    - Workshops
    - E-Learning Course



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## Any Questions?



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