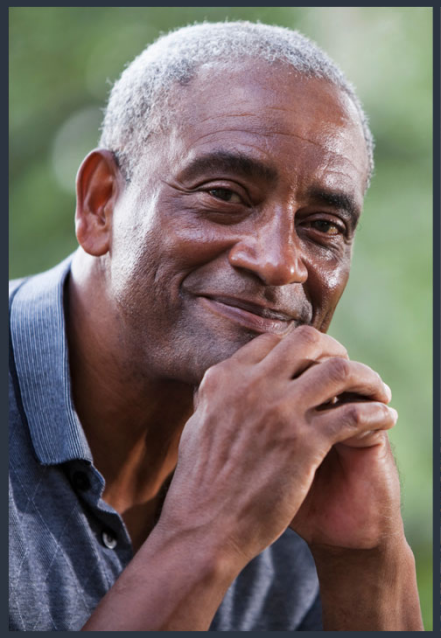
Powers of Attorney and Abuse in Later Life





A Multidisciplinary Training for Professionals Working with Older Survivors

ncall

Welcome

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Disclaimer

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Learning Objectives

- Explain the main types of Power of Attorney and how each can be used — and misused — in abuse in later life.
- Identify red flags and investigative strategies for detecting POA-facilitated abuse.
- Describe the legal framework governing POA creation, agent duties, and revocation.
- Apply victim-centered, multidisciplinary approaches to investigating and responding to POA abuse.
- Identify resources available to advocates and survivors, including revocation and safety planning options.

Poll

In your professional role, how often do you encounter Power of Attorney documents in abuse cases?

Never | **Occasionally** | **Often**

Why POA Abuse Matters

#1

Most common legal instrument used to commit financial exploitation of older adults

5.2%

Of adults 65+ estimated to be financially exploited by family members — the largest group of perpetrators

Craft, 2022; Heisler, 2019; Steinman, Vincenti & Yoon, 2020

"The trusting relationship, which serves as the foundation of a power of attorney, may constitute the most likely breeding ground for financial abuse."
— Craft, 2022 (citing Dessin, 1996)

Understanding Powers of Attorney: The Legal Framework



What Is a Power of Attorney?

- A POA allows a **principal** to appoint an **agent** to make decisions on their behalf — immediately or at a future time.
- The principal must be of sound mind at the time of signing. A POA executed without capacity may be invalid.
- A spouse does not automatically have POA authority — it must be formally granted.
- POA vs. Guardianship: A POA is created voluntarily. Guardianship is court-appointed when a person is determined to be legally incapacitated with no legal representation in place.
- POA vs. Conservatorship: A conservator is court-ordered to manage financial affairs; a financial POA is private and pre-arranged.
- Note: Language may differ by jurisdiction

Powers of Attorney Can Help Prevent Abuse

- A POA lets an older adult choose a trusted decision-maker while they still have full capacity
- A financial POA ensures a trusted person can manage bills and assets **in the principal's best interest**, without court intervention
- A POA can formally exclude an abusive partner or family member from decision-making authority
- Having both types of POA in place reduces vulnerability to court-appointed guardianship, which can be hard to reverse

Types of Power of Attorney (1 of 2)

- Financial POA (POAF): Authority over bills, accounts, real estate, and benefits.
- Health Care POA (POAHC): Authority over medical decisions — treatment, providers, records, and end-of-life choices.
- POA vs. Living Will: A Living Will communicates a person's wishes; a POAHC appoints someone to communicate those wishes.
- Durable POA: Remains in effect even if the principal becomes incapacitated. This is the default under the Uniform Power of Attorney Act.

Types of Power of Attorney (2 of 2)

- Springing POA: Takes effect only upon a specific triggering event — such as a physician certifying the principal's incapacity.
- General POA: Similar scope to a durable POA but terminates if the principal becomes incapacitated. A critical distinction for investigators: if the principal was incapacitated, the agent may have been acting without legal authority.
- Limited or Special POA: Restricts the agent's authority to specific tasks or time periods (e.g., one real estate closing).

Agent Duties Under the UPOAA (1 of 2)

State variations: The UPOAA is model legislation that has been adopted by approximately 31 states and D.C. as of 2026. Always consult local statutes.

- Act in accordance with the principal's reasonable expectations — or, if unknown, **in their best interest**.
- Act in good faith, with care, competence, and diligence (UPOAA §114).
- Keep records of all transactions. Absence of records is itself a red flag for investigators.
- Preserve the principal's estate plan when consistent with those duties.

Agent Duties Under the UPOAA (2 of 2)

- Act only within the scope of authority granted by the POA document.
- Under the UPOAA, “hot powers" require express authorization in the POA document: gifts, beneficiary changes, trust creation or amendment, creating joint accounts (UPOAA §201).
- Third parties (banks, healthcare providers) are encouraged to accept valid POAs under UPOAA §119–120; unreasonable refusal has legal consequences.
- Tip: Notarization, while not required under the UPOAA, is strongly recommended as a best practice — financial institutions are far more likely to accept notarized documents. Absence of notarization can be relevant in an investigation

When POA Becomes a Weapon: Identifying Abuse



How POA Is Misused: Financial Exploitation

- Closing bank and investment accounts and transferring funds to the agent.
- Selling or transferring real property without the principal's knowledge.
- Changing beneficiaries on insurance policies or retirement accounts.
- Using POA authority to isolate the principal from family and support systems.
- POA obtained through fraud or undue influence — when the principal lacked capacity or was coerced.

How POA Is Misused: Healthcare POA Abuse

- Overriding the principal's expressed medical wishes.
- Denying the principal access to preferred providers or facilities.
- Making end-of-life decisions contrary to the principal's known wishes.
- Using healthcare decision-making authority to isolate the principal from other family members.

Red Flags: Warning Signs of POA Abuse (1 of 2)

- Unexplained or sudden financial problems; inability to pay bills.
- Unusual changes in wills, powers of attorney, or beneficiary designations.
- Banking changes: large sudden withdrawals, unusual wire activity, new names added to accounts.
- Transfers and titles: abrupt asset transfers to the agent or third parties; deeds retitled without clear consideration.
- Missing or withheld records: refusal to share statements, receipts, or an accounting; disappearing legal or financial documents.

Red Flags: Warning Signs of POA Abuse (2 of 2)

- The agent is evasive, controls access to the principal, or speaks for the principal.
- New 'gatekeepers': restricted visits, blocked phone access — especially when money is discussed.
- The principal appears fearful, confused, or expresses surprise about financial transactions.
- Risk factors: family conflict, attitudes of entitlement, inadequate knowledge of the POA role.
- Note: not every red flag proves abuse — some reflect poor bookkeeping or confusion during a health crisis. Context matters.

Responding to Power of Attorney Abuse



Investigation Strategies (1 of 3): Document Review

- Obtain and review the POA document: execution date, scope of authority, witnesses, notarization, limitations.
- Request ALL versions of the POA — not just the current one. Ask why prior versions were amended or replaced. Alterations expanding authority near a health crisis warrant scrutiny.
- Signature comparison: Compare the principal's signature on the POA to exemplars on checks or other documents. Can help identify forgery or coercion.
- Capacity assessment: Coordinate with medical professionals to assess capacity at the time the POA was executed and at the time of the suspected abuse.

Investigation Strategies (2 of 3): Following the Money

- Financial records analysis: bank statements, real estate transactions, investment accounts, insurance policy changes. Follow the money.
- Coordinate with financial institutions: Banks may have Suspicious Activity Reports (SARs). Under UPOAA §120, third parties may refuse a POA in good faith if they believe abuse is occurring.
- Debunking the 'gift' defense: Agents who steal often claim the principal gifted the money voluntarily. Thorough documentation undermines this claim.
- Interview family members: Assess the principal's state of mind when the POA was drafted and any particular interest the agent had in being designated.

Investigation Strategies (3 of 3): Interviews & Leverage

- Interview the principal: Victim-centered techniques; create a safe environment; always interview separately from the agent.
- Identifying undue influence: Look for isolation, dependency, vulnerability of the principal — and the agent's opportunity, actions, and rationalization.
- Leverage the agent's sense of authority: Agents sometimes feel emboldened, believing they have absolute, consequence-free power as the designated decision-maker. This overconfidence can work to an investigator's advantage.

Criminal Justice Responses

- Potential criminal charges, depending on jurisdiction
  - Theft or embezzlement
  - Fraud or forgery
  - Financial exploitation of a vulnerable adult
  - Elder abuse statutes
- Penalties are frequently enhanced when the victim is an older adult.
- **Civil and criminal cases often run parallel**

Civil Legal Remedies

- Revocation by the principal: Financial and healthcare POAs can generally be revoked in writing at any time by a principal who has capacity (UPOAA §301).
    - Safety planning around revocation: Revocation may provoke retaliation. Advocates should help the survivor plan for safety and identify a new, trustworthy agent.
- If the principal has been declared legally incapacitated: A court may revoke or limit the agent's authority (UPOAA §116).
- Emergency protective options: Where incapacity or asset risk is acute, consider court-appointed guardianship (for personal decisions) or conservatorship (for financial oversight).
- Civil remedies: Agents who violate fiduciary duties may be liable for losses and any profits gained through breach of duty (UPOAA §117).
- APS reporting: When misuse is tied to broader exploitation, a report to Adult Protective Services and law enforcement may be appropriate.

The Role of Advocates

- Key principle: The existence of a POA should NEVER prevent advocates from providing services. It may make advocacy more necessary, not less.
- Confidentiality: A POA does not change advocates' confidentiality obligations. Advocates are NOT required to share information with the agent. A valid release of information is required.
- Informed consent: Ensure the survivor understands their POA and consents to services with full information, including whether or not a mandated report must be made.
- Safety assessment: Assess safety and develop a safety plan — which may include revoking the POA if the agent is causing harm.

Multidisciplinary Coordination

- No single discipline can address POA abuse alone — coordinated community response (CCR) is essential.
- Key partners: Law enforcement, prosecutors, victim advocates, Adult Protective Services, aging and disability resource centers, elder law attorneys, financial institutions, healthcare providers.
- Multidisciplinary teams (MDTs): A model for investigation and case staffing that promotes information sharing and coordinated intervention.
- Dispelling myths: That a POA justifies theft; that there can be no prosecution without victim testimony; that consent eliminates criminal liability; that a civil case bars a criminal case.

Case Scenario: Applying What We've Learned



Eleanor, 78



- Mild cognitive impairment; not deemed legally incapacitated
- Adult son David is her agent under a valid POA for finances
- David has moved in with Eleanor and taken over her finances
- Bills are being paid
- Eleanor told daughter that David gets upset when she asks about her accounts
- She seems confused about whether or not she owns her house
- Eleanor trusts David and doesn't want him to get in trouble
- Admits she is feeling "a little scared"

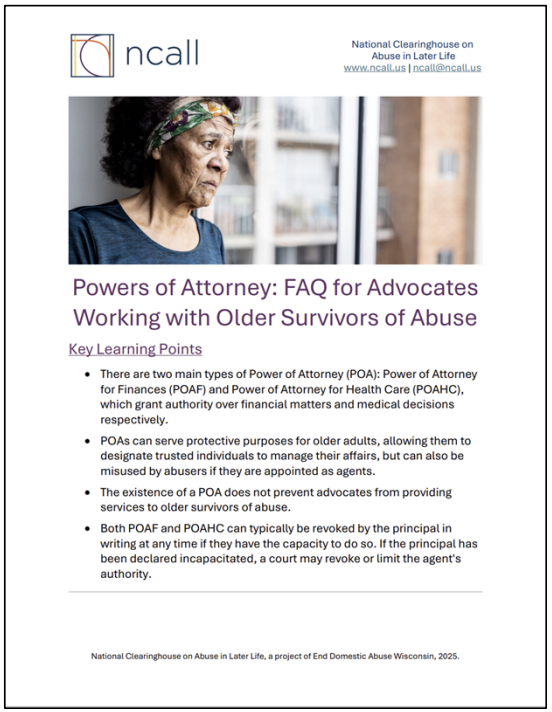
Case Scenario: Discussion Questions

- What indicators of POA abuse do you see in this scenario?
- Is the POA valid? What is its scope?
- What are the mandated reporting obligations?
- What investigative steps would you take? What evidence would you gather?
- How would *your* discipline contribute to the response?
- How do you safety plan with the survivor, including revocation options?

Resources, Q&A & Closing

NCALL Resource for Participants

NCALL — POA FAQ for Advocates Working with Older Survivors


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National Clearinghouse on Abuse in Later Life
www.ncall.us | ncall@ncall.us

Powers of Attorney: FAQ for Advocates Working with Older Survivors of Abuse

Key Learning Points

- There are two main types of Power of Attorney (POA): Power of Attorney for Finances (POAF) and Power of Attorney for Health Care (POAHC), which grant authority over financial matters and medical decisions respectively.
- POAs can serve protective purposes for older adults, allowing them to designate trusted individuals to manage their affairs, but can also be misused by abusers if they are appointed as agents.
- The existence of a POA does not prevent advocates from providing services to older survivors of abuse.
- Both POAF and POAHC can typically be revoked by the principal in writing at any time if they have the capacity to do so. If the principal has been declared incapacitated, a court may revoke or limit the agent's authority.

National Clearinghouse on Abuse in Later Life, a project of End Domestic Abuse Wisconsin, 2025.

Other Resources

- DOJ Elder Justice Initiative — Financial Exploitation resources & webinars: justice.gov/elderjustice
- ABA Commission on Law and Aging — 'Selected Issues in POA Law' (2023): americanbar.org/groups/law_aging
- NAELA — Elder law attorney referral: naela.org
- CFPB — Managing Someone Else's Money guides: consumerfinance.gov
- Local: State legal aid organizations, Area Agencies on Aging, Adult Protective Services

Key Takeaway

POA documents can protect older adults — or be weaponized against them.

Multidisciplinary professionals play a critical role in identifying abuse, supporting survivors, and holding abusers accountable.

Thank You!

Please complete the evaluation form.

Questions?
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