

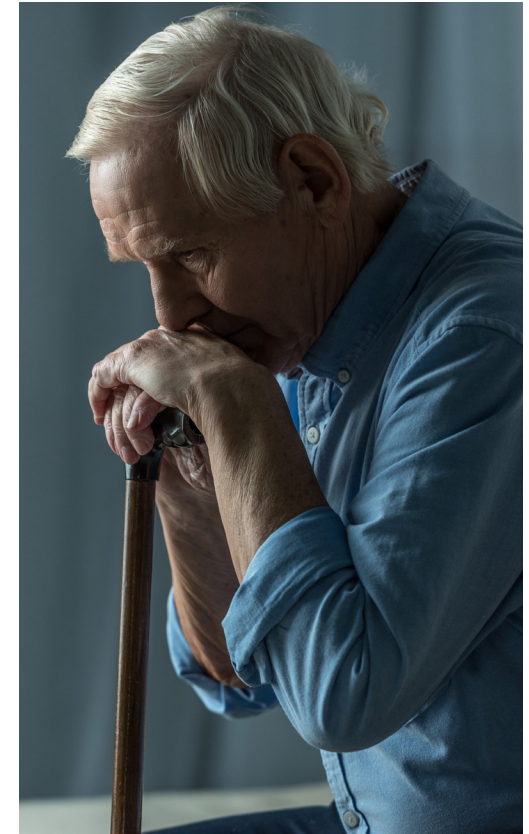
# 7 Elder Rights, Abuse, and Fraud

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This section provides information about abuse, neglect, and exploitation, and resources for assistance if you or your loved one have experienced abuse.

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## QUESTION

How do I know if someone has been or is being abused?

## ANSWER

Abuse can take many forms. Any willful act or threat that causes (or is likely to cause) significant physical, mental, or emotional harm is considered an act of abuse. Common forms of abuse include hitting, pushing, shaking, beating, yelling, verbal harassment, coercive behavior, intimidation, and other acts that cause harm.

## QUICK FACT

Florida Statute 415.0134 requires anyone who knows, or has reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited to file a report by contacting the Florida Abuse Hotline toll-free at 1-800-96-ABUSE (1-800-962-2873).

## ABUSE, NEGLECT, AND EXPLOITATION

Getting older should earn you more respect, not less. No one at any age should be subjected to physical or mental abuse. If you are a senior and believe you are in an abusive situation, it is important for you to know that you have legal rights and that elder abuse is a crime. You have the right to live your life free from abuse, neglect, and exploitation.

The Department of Elder Affairs is committed to working with the network of social services and law enforcement agencies throughout the state to protect Florida's elders from abusive situations and environments. The Adult Protective Services Act (Chapter 415 of Florida Law) requires the state to have specific procedures to report and investigate instances of suspected abuse, neglect, or exploitation of adults with disabilities and the elderly. The Department of Children

and Families Adult Protective Services Office serves as the lead agency for handling reports and investigations of abuse. To report abuse, neglect, or exploitation, call the Florida Abuse Hotline toll-free at 1-800-96-ABUSE (1-800-962-2873).

Unfortunately, many seniors know their abusers well – reports of abuse committed by adult children, grandchildren, friends, neighbors, or in-home health care providers are numerous.

## Signs of Abuse

- Cuts, burns, bruises, or welts
- Dehydration or malnutrition
- Lack of food, water, or utilities
- Fear, anxiety, agitation, or anger
- Isolation, depression, or ambivalence

Neglect occurs when caregivers fail to provide elders with the essentials they need to maintain their physical and

## TYPES OF ELDER ABUSE

- Mental, emotional, or verbal abuse
- Sexual abuse
- Neglect
- Self-neglect
- Financial exploitation

mental health. A person could be a victim of neglect anytime someone in charge of his or her care deprives him or her of food, clothing, or medical care. In most cases, neglectful behavior is repeated over a period of time.

Self-neglect is the most common type of abuse reported to Adult Protective Services. Self-neglect is a form of neglect in which an elder can no longer perform essential daily activities, such as providing his or her own food, clothing, shelter, and medical care. Self-neglect also includes situations in which a person can no longer obtain goods and services necessary to maintain

physical health, mental health, emotional well-being, or general safety, or can no longer manage his or her financial affairs.

### Signs of Neglect

- Unsafe living conditions
- Unexplained weight loss
- Bedsores
- Lack of medical or personal care
- Hoarding
- Wandering or social isolation
- Confusion or cognitive impairment
- Body odor, dirty clothing and hair

Exploitation involves the use or unauthorized handling of an elderly person's money, property, or other valuable resources. Unfortunately, unsuspecting elders can be exploited in many different ways. Those who misuse their power of attorney or guardianship

status in a way that results in the unauthorized appropriation, sale, or transfer of property or personal assets are guilty of exploitation. To report fraud or financial exploitation, contact your local law enforcement office or the Florida Division of Financial Institutions consumer helpline at 1-800-342-2762.

### Signs of Exploitation

- Unusual transfer of assets
- Unable to pay bills
- Forged signatures
- Personal belongings missing
- Unusual credit/debit card usage

For additional information on elder abuse, neglect, and exploitation, contact your Aging and Disability Resource Center, or call the Elder Helpline at 1-800-96-ELDER (1-800-963-5337).

## IDENTITY THEFT

Advances in modern technology have made it even easier for thieves and con artists to rob seniors of their hard-earned assets and life savings. Today's thieves do not have to rely on pickpocketing as the primary method of robbing their victims. They can use data – such as your name and social security number – to open false credit card and bank accounts,

### QUESTION

If my identity has been stolen, will I ever be able to get my credit restored?

### ANSWER

Yes, it is possible to have your credit restored. You will be asked to provide creditors with notarized affidavits identifying all fraudulent accounts and requesting that they be closed. The Federal Trade Commission Consumer Information website has a form that can be downloaded at [consumer.gov/idtheft](http://consumer.gov/idtheft).

and make various purchases in your name, leaving you as the victim of their crime sprees.

Identity theft is on the rise and ranks as the top consumer fraud complaint in the nation, according to the Federal Trade Commission. This kind of crime occurs when an impostor uses your name, social security number, or other personal information without your knowledge. Unfortunately, many people do not even know their identities have been stolen until:

- They receive bills for credit card accounts they never opened;
- They see unfamiliar charges on their bills they did not authorize;
- Billing cycles pass without receiving a statement; or
- Their credit report includes debts they did not know they had.

If you believe someone has stolen your identity, you should take several steps immediately. First, contact the fraud department of each of the three major credit

bureaus (see below). Tell them to flag your file with a fraud alert and include a statement that creditors should get your permission before opening any new accounts. Next, ask the credit bureaus for copies of your credit reports. Review the reports carefully to make sure no additional fraudulent accounts have been opened or unauthorized charges made on your existing accounts.

## Credit Bureaus

### Equifax

To report fraud:  
1-800-525-6285  
To request a credit report:  
1-800-685-1111

### Experian

To report fraud:  
1-888-397-3742  
To request a credit report:  
1-888-397-3742

### Trans Union

To report fraud:  
1-800-680-7289  
To request a credit report:  
1-800-916-8800



## PREVENT IDENTITY THEFT

- Do not leave your name and address on discarded mail
- Use a shredder to destroy papers with personal information
- Store important papers in a secure location
- Never leave mail in your mailbox overnight

## QUICK FACT

According to a study by Javelin Strategy and Research, approximately 12.7 million Americans were victims of identity theft in 2014 at a cost of \$16 billion to the economy.

For additional information on identity theft, contact your local law enforcement office, or call the Federal Trade Commission at 1-877-ID-THEFT (1-877-382-4357) or TDD 202-326-2502.

Once you receive your credit reports, speak with your creditors about any accounts that have been tampered with or opened without your permission. Speak with someone in the security or fraud department, and be sure to follow up your phone conversations with a written account of what was said. **NOTE:** Following up with a letter is one of the procedures spelled out in the

Fair Credit Billing Act for resolving errors on credit billing statements.

Florida law prohibits the fraudulent use of personal identification information (also known as identity theft). Be sure to file a report with your local police or the police in the community where the identity theft took place. Keep a copy of the police report in case your creditors need proof of the crime.



### QUICK FACT

Civil cases are generally brought by private individuals or corporations seeking to collect money owed or monetary damages. Criminal cases are brought by the local, state, or federal government in response to a suspected violation of law and seeks a fine, a jail sentence, or both.

## LEGAL AID AND ASSISTANCE PROGRAMS

Sometimes seniors face problems that they cannot resolve themselves. At these times, they often need legal assistance from a trained attorney. Not all seniors can afford their own attorney or even know where to turn to find one. A number of legal resources are available in Florida to help seniors with civil (not criminal) legal issues.

### Florida Senior Legal Helpline

The Senior Legal Helpline provides free legal advice and brief services by telephone to low-income and other vulnerable Florida residents age 60 and older, for civil legal problems. The Senior Legal Helpline (1-888-895-7873) also provides solutions to seniors to help them resolve their legal problems, makes referrals to state and local regulatory agencies, and, when it is determined that court representation is necessary, helps seniors find legal assistance providers in their communities.

Eligible callers are scheduled for a free telephone consultation with an attorney or paralegal. Most callers will receive answers to their legal questions during the initial telephone appointment or may receive fact sheets and other information relevant to their legal issues. Clients may also qualify for referrals to free legal services providers in their local communities. These providers work in partnership with the Senior Legal Helpline and the Department of Elder Affairs to ensure that low-income and other vulnerable elderly Floridians have equal access to legal remedies.

### Legal Services Programs Without Income Eligibility Requirements

Title III of the Older Americans Act makes funds available specifically for legal assistance to the elderly. The Title III Legal Services provider for a particular area can be identified through the local Elder Helpline. Eligibility for these services is based on age, not income, so elders should

provide their age if they call. Priorities are established on the types of legal matters handled.

## Legal Services Programs With Income Eligibility Requirements

Legal services for Floridians who would not otherwise have the means to obtain a lawyer are provided by a network of federal, state, and local grants, and the courts. The client eligibility standard for legal assistance providers in Florida is 125 percent of the federal poverty level. However, some individual provider programs often have special grants that enable them to serve certain populations with incomes that exceed the general eligibility standard, such as the elderly and victims of domestic violence. Therefore, it is important to contact the provider program directly to determine possible eligibility for assistance. To find local legal aid resources contact the Elder Helpline at 1-800-96-ELDER (1-800-963-5337) or the Senior Legal Helpline at 1-888-895-7873.

Also, in the Resource Directory section at the back of this guide, under the county resources listing, you can find the name, address, and telephone number of your local legal aid provider. If you have Internet access, you can download a directory of providers by county at [floridalegal.org](http://floridalegal.org).

## Elder Law Practitioners

Elder law is a recognized area of practice in Florida. Attorneys specializing in elder law are familiar with the special needs and problems facing elders and can be located in the yellow pages of the phone directory under "Attorney – Elder Law."

## Certified Elder Law Practitioners

Attorneys who are certified by the Florida Bar in elder law can be located on the Florida Bar's website at [floridabar.org](http://floridabar.org). You may also phone the Florida Bar at 850-561-5600. However, please note that certification is not required to practice elder law.

## QUICK FACT

Local Elder Helplines are listed by county in the back of this guide. They may also be found on the Department of Elder Affairs website at [elderaffairs.org](http://elderaffairs.org) or you may call the statewide Elder Helpline at 1-800-96-ELDER (1-800-963-5337).

## Academy of Florida Elder Law Attorneys (AFELA)

Elder Law attorneys are listed on the website of the Academy of Florida Elder Law Attorneys at [afela.org](http://afela.org). Select "Find a Lawyer" and specify city, state, and ZIP code or attorney's name. A directory of all AFELA members for that city will be displayed, including addresses and phone numbers. You can also call the organization at 850-296-8089.

## Lawyer Referral Service (LRS) of The Florida Bar

The Florida Bar Lawyer Referral Service covers those counties

where the local bar association does not operate a lawyer referral service. You can reach the service toll-free at 1-800-342-8011 or online [floridabar.org](http://floridabar.org). There is a \$25 charge (local Bar-sponsored program charges range from \$20 to \$50) for a 30-minute consultation with an attorney, except for referrals to attorneys on the specialty panels. The Florida Bar has also established Low-Fee and Elderly specialty panels.

### QUESTION

How can I find the legal aid provider for my county?

### ANSWER

You can contact the Senior Legal Helpline at 1-888-895-7873.

### QUICK FACT

There are special legal aid programs for residents of rural areas. For more information, see the Resource Directory for programs in your county.

## Elderly Law Panel

The Elderly Law Panel of the Florida Bar Lawyer Referral Service provides a free 30-minute consultation with an attorney. After the first 30 minutes, fees are negotiable, based on the client's ability to pay.

## LONG-TERM CARE OMBUDSMAN PROGRAM

A long-term care ombudsman is a specially trained and certified volunteer who has authority under state and federal law to identify, investigate, and resolve complaints made by, or on behalf of, long-term care facility residents. The priority of the Long-Term Care Ombudsman Program (LTCOP) is to protect the rights of individuals residing in long-term care settings, such as nursing homes, assisted living facilities, and adult family-care homes. Ombudsman help to ensure that residents receive fair treatment and appropriate care by:

- Investigating and resolving complaints;
- Ensuring residents are receiving services to which they are entitled;
- Educating residents, families, and staff about residents' rights;
- Providing public information about long-term care facilities through the use of annual assessments of those facilities;
- Helping to establish resident and family councils; and
- Working to change laws, regulations, and policies to positively affect residents' quality of life.

The State Ombudsman, appointed by the Secretary of the Department of Elder Affairs, heads LTCOP. The program operates 18 local councils of volunteers within 14 districts that cover the state. Volunteers in each local council advocate to protect the rights and improve the quality of life of long-term care facility residents.



Complaints may be filed against a facility, employee, service provider, guardian, or other individual in a position to threaten or interfere with the health, safety, welfare, or rights of a resident. Complaints range from issues involving medication administration, food quality, and inadequate services to basic matters of dignity and respect. Complaint information is kept confidential and the program's services are provided at no cost. You may file complaints in writing, by phone, online, or in person.

Long-Term Care  
Ombudsman Program  
Department of Elder Affairs  
4040 Esplanade Way  
Tallahassee, FL 32399-7000

Toll-free:  
1-888-831-0404

Email:  
[ltcopinformer@elderaffairs.org](mailto:ltcopinformer@elderaffairs.org)

Online:  
[ombudsman.myflorida.com](http://ombudsman.myflorida.com)

For additional information on LTCOP, call the toll-free number or contact the district office nearest you.

## MEDICARE FRAUD

The Senior Medicare Patrol (SMP) Program serves all of Florida, and can be reached by calling 1800-96-ELDER (1-800-963-5337), and requesting to speak with SHINE (Serving Health Insurance Needs of Elders). Members of the public can ask questions and report suspected fraudulent activity on their health care accounts, request an SMP presentation, or become an SMP volunteer.

SMP is administered by the Area Agencies on Aging through a grant from the Administration for Community Living. The program's goal is to educate and empower beneficiaries to take an active role in detecting and preventing health care fraud and abuse, with a focus on the Medicare and Medicaid programs.

## 14 DISTRICT OFFICES

- Northwest
- Panhandle
- North Central
- First Coast South
- First Coast
- West Coast
- West Central
- East Central
- Southwest
- Palm Beach
- Broward
- North Dade
- South Dade and the Keys
- South Central

## QUESTION

Who can call an ombudsman?

## ANSWER

Residents, friends, relatives, employees, and anyone else who has concerns about a resident's health, safety, welfare, or rights

## QUESTION

My husband recently lost his Medicare card. Can he use my card until he is able to get a replacement?

## ANSWER

No, using another person's Medicare card, for any reason, to receive medical care is considered to be a fraudulent activity.

To accomplish this, the program recruits, trains, and guides retired professionals as volunteers to help seniors become better health care consumers. The volunteers work in their own communities where seniors congregate. They help educate beneficiaries on how to monitor what is paid on their behalf and to identify deceptive health care practices, such as bundling charges to hide non-covered fees, filing bogus claims for products or services never rendered, altering billing codes to inflate Medicare and Medicaid claims, and ordering unnecessary

or inappropriate products or services to increase revenues.

Senior Medicare Patrol program staff and trained volunteers:

- Partner with the aging services network, law enforcement, and others to promote community awareness of health care error, fraud, and abuse;
- Develop and distribute consumer education materials about Medicare; Medicare Savings Programs; and fraud, error, and abuse through presentations, health fairs, and press events (see below);
- Provide consumer counseling and when necessary serve as consumer advocates to resolve billing disputes or issues;
- Make appropriate referrals to health care agencies and law enforcement for suspected cases of error, fraud, or abuse; and
- Support technical assistance efforts designed to share and

replicate common strategies and successful practices.

## Remember these 3 Rs: Record, Review, and Report

**Record** visits, lab work, and hospital stays in a journal or calendar.

**Review** your Medicare Summary Notice or health care billing statement. Your Medicare Summary Notice is the piece of mail marked, "This is Not a Bill" that is received on a quarterly basis. If you have a [mymedicare.gov](https://www.mymedicare.gov) account, you will receive electronic Medicare Summary Notices. Compare your Notice to your journal entries, and check your statement or Notice for:

- Charges for services or products you did not receive;
- Double billing for a product or service; and
- Services not ordered by the doctor

**Report** suspected errors, fraud, or abuse you find on your

Medicare or Medicaid account to the SHINE Program by calling toll-free 1-800-96-ELDER (1-800-963-5337).

## Helpful Tips for Medicare Recipients

- Protect your Medicare card like a credit card;
- Review all forms and hospital bills to verify services received; and
- If you become a victim of fraud, report the scam to authorities.

For additional information on Medicare fraud, contact your Aging and Disability Resource Center, or call the Centers for Medicare & Medicaid Services (CMS) at 1-800-633-4227.

## OFFICE OF PUBLIC AND PROFESSIONAL GUARDIANSHIP

Not to be confused with the Guardian ad Litem program, guardianship protects the property and personal rights of vulnerable persons who lack the

capacity to make decisions on their own behalf and lack the appropriate advanced directives.

Before a guardianship can be established, a court must determine that a person lacks the capacity to make decisions on his or her own behalf. If the court determines that the person lacks this capacity and does not have the appropriate advance directives, then the court appoints a guardian.

Generally, there are three types of guardians in Florida. If a person has family or friends who can serve, then the court may appoint a family member or friend. These people are considered nonprofessional guardians. If the incapacitated person does not have a loved one who can serve but does have assets, the court may appoint a professional guardian. If the incapacitated person does not have family or friends and is of limited financial means, then the court may appoint a public guardian, if one is available.

The Office of Public and Professional Guardianship is responsible for the registration and education of professional guardians in Florida and designates the public guardians in the state. Current lists of both professional and public guardians can be found at the Office of Public and Professional Guardianship section of the Department of Elder Affairs website at [elderaffairs.org](http://elderaffairs.org).