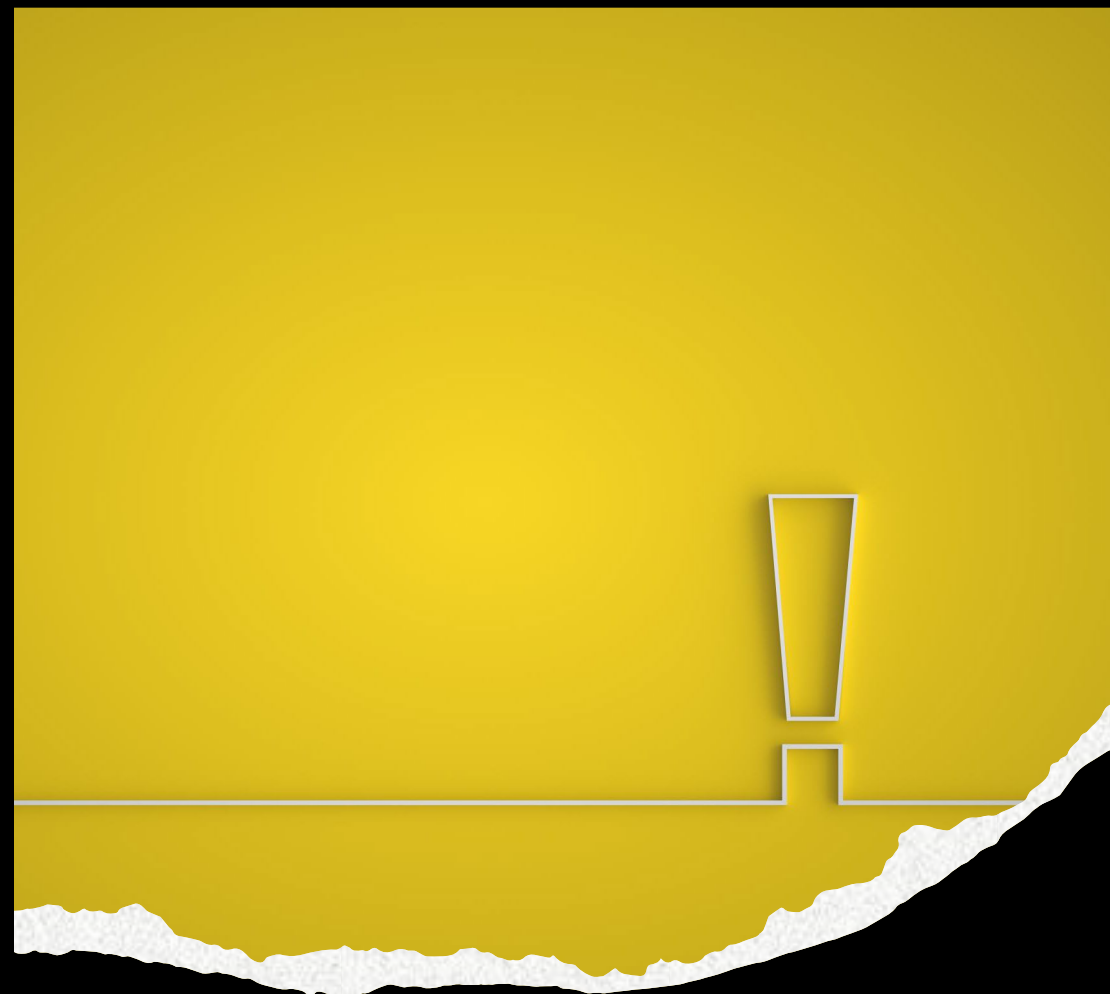


How to Identify Signs of Exploitation under Guardianship

Scott E. Collins, Esq.



What is Elder Law?

Long-term
Healthcare
benefits (Medicare
& Medicaid)

Probate

Veteran's Benefits

Guardianship

Special Needs
Planning

Estate Planning



ELDER LAW GUIDANCE

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How to Identify Signs of Exploitation under Guardianship



1. Focus on Exploitation
2. Understanding Guardianship
3. How can that protective role be an incubator for exploitation?

3 Issues



APS Reports

Adult Protective Services

1. Focus on Exploitation
2. Understanding Guardianship
3. How can that protective role be an incubator for exploitation?



Abuse Exploitation & Neglect

KRS 209.020 (8) (9)

"Abuse"

- infliction of injury,
- sexual abuse,
- unreasonable confinement, intimidation, or
- punishment that results in physical pain or injury, including mental injury;

"Exploitation"

- Obtaining/using another's resources (funds, assets, or property),
- by deception, intimidation, or similar means,
- with the intent to deprive the person of those resources;

"Neglect"

- unable to obtain services Welfare and Health

Kentucky A. P. S.

Adult Protective Services

Seniors are considered
adults age 60 and above

23,766 calls to report
Neglect, abuse, exploitation

6,648 met the criteria for
follow-up

< 260 any charges filed

Based upon most recent data *2022

Each year Elderly
Americans lose
\$36.5 billion through
financial neglect



One in ten seniors will be
abused/exploited/neglected
each year

Best Estimate is
only 1/24 cases are
reported



Neglect Cases

1,782 Caregiver
neglect

3,555 Self
Neglect

Kentucky
is a mandatory
reporting state



KRS 209.030 (2)

Any person, having **reasonable** cause to **suspect** that an adult has suffered abuse, neglect, or exploitation, **shall** report. Death of the adult does not **relieve** one of the responsibility.

Report
877-597-2331



Exploitation Cases

**90% family
member/trusted
friends**

**10% strangers
and scams**

Out of 23,766 reports, of which 6,648 were deemed worthy of follow-up, BUT ONLY 1,773 were sent to the Guardianship Court





Spotting Neglect and Abuse

Signs of Neglect & Abuse

Changes in appearance, health status, personal habits

Change in Banking patterns, spending habits

Unpaid bills, unread mail, piling up

Missed appointments

Missing Personal Items

Signs of confusion, social changes (less talkative, more guarded)

Change in Physician, Attorney

Bruises and bandages

Strange Visitors

New found Enthusiasm



Guardianship Cases

1,773

Guardianship is a complete removal of personal civil rights, and placing those in the hands of another



Guardian oversees the responsibility for the person (living arrangements, healthcare, etc.)

Conservator controls the financial assets and personalty



Submission of an AOC Form for

1. An Initial Inventory
2. An Annual Report of Income, Expenses, Final Balance
3. An Annual Report of Changes in Healthcare status & Living arrangements

What Control and Oversight does the Court Provide?

Guardian/
Conservator is to
provide for the care of
the Ward (who is
highly vulnerable).

She is charged with
managing the
finances, assets,
physical and
emotional health and
well being.

However, once vetted
and installed,
Guardian/Conservator is
essentially enrolled in
an honor system.

Options?

If a party to the guardianship case:

Ask that a care plan be part of the record.

Care plan should include detail of the needs to be addressed over the upcoming year.

Ask for the reviews to be done more frequently

Require that a team of advisors be consulted, state required frequency

Detail the required schedule of Doctors visits

If attorney is involved, ask that attorney to vet the spending on a monthly basis.

If no attorney, require bank/spending statements to other family members monthly.

Require a monthly weight record and doctor's visits be provided monthly (to Court)!

Ask for a Court Appointed Guardian (Cabinet)



QUESTIONS?

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