How an Estate Plan Can Protect Against Financial Exploitation

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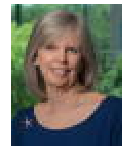

I suspect that many of you, like me, have deleted an email from a friend that says he is away on a trip and needs you to wire him money.

According to experts, despite increased phishing emails and robocalls, it is far more common for financial exploitation to be committed by people who know the victim, such as relatives, caregivers, neighbors, or "friends." Unfortunately, financial exploitation is more common than you would expect. Fortunately, we can help our clients better understand financial abuse and strategies to avoid being exploited.

Several studies have identified that the individuals who are more at risk for financial abuse include the following:

- someone who has a cognitive impairment;
- someone who is in poor physical health;
- someone who is isolated; and
- someone who has a learning disability.

Studies also indicate that these are common characteristics of individuals who financially exploit others:

- someone who has substance abuse issues;
- someone with a mental illness;
- someone who is financially dependent on the person they are exploiting.

The AARP has published these warning signs that an individual may be the subject of financial exploitation:

- changes in patterns of spending, transfers, or withdrawals from accounts;
- isolation from family and friends;
- financial activity that cannot be explained;
- inability to pay for routine bills and expenses;
- sudden changes to estate planning documents, beneficiary designations, or adding joint owners to an account.

One of the many ways we assist our estate planning clients is to develop a plan to avoid financial abuse. In advance, clients can prepare documents that can be implemented if they become vulnerable to exploitation. Instead of relying on a durable power of attorney, a funded revocable trust can provide more robust protection for those who are vulnerable. A revocable trust-based plan can include safeguards such as co-trustees and requiring an independent party's consent to any trustee change or amendment.

It is also important to build a support system that will be available to protect a client in the event someone attempts to exploit them. We can consult and team with a client's financial advisors, accountants, and other professionals in developing and implementing a plan to avoid or end such financial abuse. In addition to estate planning documents, practical steps to consider include:

- Consolidating accounts with a trusted financial advisor. Accounts that are scattered among different banks can make this sort of abuse harder to spot.
- Having a family member or trusted person receive copies of account statements so that these accounts can be monitored remotely. A CPA also could be hired to assist in this role.
- Consider a credit freeze to prevent a situation where someone might be talked into opening new credit cards and incurring other debt. A credit check also can be a good idea to see what obligations and accounts there are.
- Establishing a budget, and sharing that information with advisors and a trusted person, so that spending that varies from the client's norm can be flagged more easily.

Financial exploitation and abuse are serious risks. The best strategy is to put protections into place ahead of time.

About the Author:

Trusts and estates attorney Eldridge Dodson has a Graduate Certificate in Gerontology from the University of Southern California (USC). Earning the certification means Eldridge completed courses in USC's graduate program designed to equip professionals with the knowledge and skills to assist and advocate for the aging adult population.

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