

# TOL Workbook for Financial Exploitation Mini-Module

## **Power of Attorney Abuse**



Developed by Kevin Bigelow

**Topic:**

The subject of the Power of Attorney Abuses Mini-Module is to provide information about the various types of Power of Attorney documents that exist and indicators that power of Attorney abuse may be taking place. This Mini-Module will also discuss the steps to pursue in investigating a possible Power of Attorney abuse case, as well as various types of legal remedies that can be pursued if Power of Attorney abuse is identified; as well as information on various professional partners that may assist you in intervening in one of these cases.

**Objectives:**

At the end of this module, participants will be able to:

- **Define specific types of POA abuse**
- **Identify indicators of POA abuse**
- **Describe the steps to take in the investigation**
- **Identify partners in the field**

**Activities:**

Supervisors can use this workbook to provide training for new staff or as a refresher or supplemental training to more experienced staff on Power of Attorney (POA) abuse. This information will include definitions and explanations of the various forms of Power of Attorney (POA) documents, special considerations about different types of POA documents, indicators of POA abuse, steps to investigate potential POA abuse, professional partners who can assist in these situations, and possible avenues to seek remedies for POA abuse that have been found.

**Suggested Readings:**

[http://www.crimes-of-persuasion.com/Crimes/InPerson/MajorPerson/elder\\_abuse.htm](http://www.crimes-of-persuasion.com/Crimes/InPerson/MajorPerson/elder_abuse.htm)

[http://www.americanbar.org/content/dam/aba/migrated/aging/about/pdfs/durable\\_poa\\_abuse\\_fact\\_sheet\\_criminal\\_justice\\_professionals.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/aging/about/pdfs/durable_poa_abuse_fact_sheet_criminal_justice_professionals.authcheckdam.pdf)<http://www.medlawplus.com/library/legal/durablepowerofattorney.htm>

## **Different Types of POAs:**

The POA Abuse Mini-Module defines four types of POAs:

**General**

**Special or Limited**

**Durable**

**Health Care**

In addition to the four types of POAs listed above, two types of Durable Powers of Attorney (DPOAs) are identified: an **Immediate DPOA** and a **Springing DPOA**.

These types of DPOAs (and their subtypes) are defined as follows:

**General Power of Attorney:** A general power of attorney is very broad and provides extensive powers to the person or organization appointed as an Agent.

**Special or Limited Power of Attorney:** A special or limited power of attorney is often used to allow an Agent to handle specific situations when the older adult is unavailable or unable to do so because of other commitments or health reasons.

**Durable Power of Attorney:** A Durable Power of Attorney differs from a special or limited power of attorney in that it continues to be in effect if the older adult becomes mentally incompetent.

- **Immediate Power of Attorney:** An “immediate” Durable Power of Attorney gives authority over to an agent immediately when the document is signed.
- **A Springing Durable Power of Attorney:** A “springing” Durable Power of Attorney does not give authority over to the Agent until two doctors have certified in writing that the older person is mentally incompetent, and unable to legally handle their affairs.

**Health Care Power of Attorney:** A Health Care Power of Attorney allows the designation of a person who will have the authority to make health care decisions on your behalf if you are unable to make such decisions.

### **Discussion Questions:**

With a group of staff that have recently completed the Power of Attorney Abuse Mini-Module, or at a staff meeting, discuss the following questions related to the various types of POAs.

1. How does a General POA differ from some of the other types of POAs? Does a general POA require a health condition or lack of competency to be activated?
2. Actions that may take place under a Special or Limited POA would include what types of activities. Other than for health reasons, under what circumstances might the designated agent be taking these actions?
3. What is the difference between an Immediate and a Springing? How might the mental status of the person that has executed the Immediate or Springing POA be a factor? Can you think of any examples of health issues that might influence people to choose one of these subtypes of DPOA or the other?
4. How does a Health Care Power of Attorney differ from a Durable Power of Attorney? What is the difference between a health Care Power of Attorney and a Living Will?

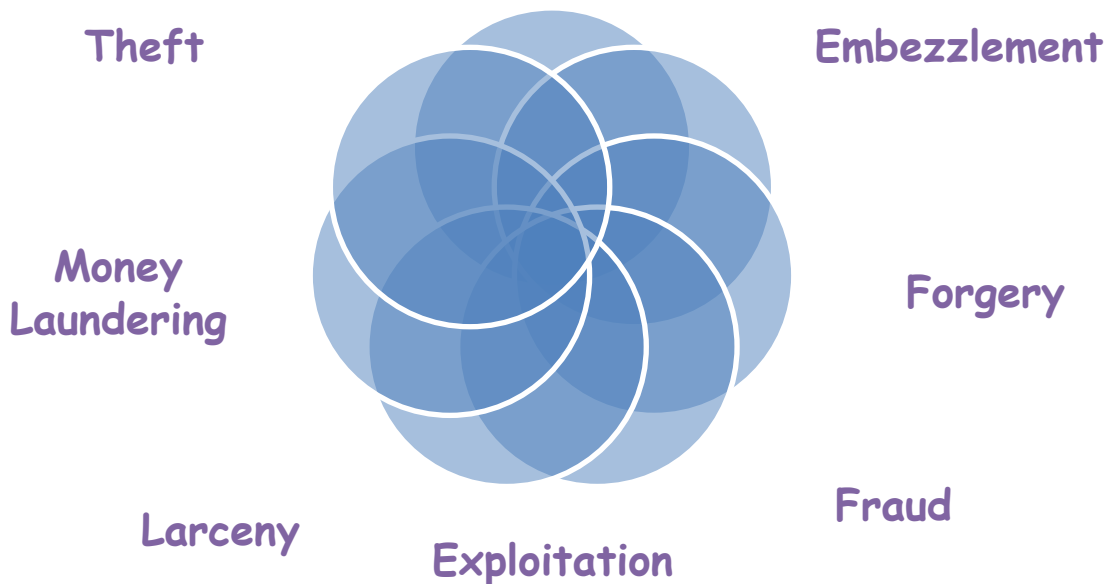
**Learning Objective #1:**

**Define specific types of POA abuse**

Although, strictly speaking, abuse of the Power of Attorney authority given to an Agent may not be a crime in and of itself, very often crimes are committed by POA abuse. The definition of Financial Abuse under California law is: “Any situation in which a person in a position of trust to an elder or dependent adult takes their money for any wrongful use or with the intent to defraud’-*California welfare and Institutions Code Section #15610.30*

POA Abuse situations often meet this definition, and a number of crimes may result from POA abuse. Some of the crimes that may result from POA abuse are listed in the diagram below.

**POA Crimes**



## **Discussion Questions:**

As a group, discuss the various crimes listed in the diagram above and identify some examples of each (either from cases that have taken place or from vignettes or examples from the POA Abuse Mini-Module). Using your example, discuss which of these crimes may have taken place as a result of POA Abuse.

Some examples of the POA abuse that could result in a crime being committed include:

- A POA Agent removes some possessions belonging to the person who designated them as POA Agent without that person's approval, and for their own use.
- An unscrupulous person already involved in illegal activities uses the accounts and/or investments of the person for whom they are a designated POA Agent to "clean" illegal funds by depositing them in the accounts of the person who designated them, and then removes and withdraws them for fictitious expenses, actually retaining them for their own use.
- A POA Agent uses the finances and resources of another to secure other loans to finance purchases of their own, that are for their own use.
- An unscrupulous person convinces an ill elder to make designate them as their POA Agent, only to place that person in a sub-standard care setting, far beneath their level of resources and absconds with the victim's money and property.
- An unscrupulous relative takes advantage of a confused elder and forges their name on a Power of Attorney, thereby gaining control of the elder's assets for their own uses.
- Pretending to act in the interests of the person who designated them, an unscrupulous POA Agent absconds with funds and/or person property rightfully belonging to the person whose interests they are supposed to be representing.

Note-Larceny is defined as: The wrongful taking or carrying away of the personal goods of another from his or her possession with the intent to convert them to the takers own use (Dictionary.com)

## **Learning Objective #2:**

### **Identify indicators of POA abuse**

The willful abuse of a Power of Attorney may take many forms, however, it will most often involve misuse of the client's finances or other resources to fulfill some personal desire or need of the perpetrating POA Agent. Before a client can be identified as a victim of POA Abuse, first there must be recognition of some action or indicator that abuse is occurring. Information about this indicator may come from a reporting party or someone who complains to another civic, community, or judicial entity. Indicators of POA abuse may also come to light when we view the living environment of the client, when we speak to the client about their needs, problems, situation, or when we meet with the POA Agent themselves to discuss a client.

At times we may enter a client's life based on a financial abuse report, aware already of some POA abuse indicator, however, many times POA Abuse indicators will pop up while we are investigating other allegations, perhaps neglect or even self-neglect allegations. It is important to be able to recognize and pick up on these indicators as they may come to light when we least expect them. The better we become at picking up on these red flags, the more likely it is that we can help protect our clients better, and get to the root of their problems as quickly and efficiently as possible.

This POA Abuse Mini-Module defines three categories of POA abuse indicators. Each of these categories covers indicators of POA abuse that may become apparent from different sources based on different signs. They are:

#### **General Client POA Agent**

**General** POA abuse indicators include:

- **Documentation of the onset of the elder's confusion prior to the signing of the POA**
- **Unusual, erratic, or suspicious banking activity**
- **Lack of amenities although the elder could afford them**

**Client** POA abuse indicators include:

- **The client and/or their residence are unkempt although care has been arranged for**

- **The client is forced to sell or give away property**
- **The client is placed in a facility clearly below their means to pay**
- **The client is not informed about their financial affairs or the location of their money**

**Power of Attorney** indicators of POA abuse include:

- **POA Agent is evasive or vague about financial arrangements**
- **Purchases made by the POA Agent are not on the client's behalf**
- **POA Agent decisions do not seem to be in the client's best interests**

### **Discussion Questions:**

In a new staff orientation, or staff meeting while discussing financial abuse/POA abuse, review the three categories of POA abuse as identified above. Discuss the situations where each identified type of abuse indicator may come to light (i.e. erratic banking practices could be reported by financial institution staff, family members or caregivers, etc). Encourage staff to talk about any cases they may have had that involved these types of indicators, and who it was that reported or disclosed them. By discussing where each type of indicator may come from, staff can be more aware of the questions to ask different parties related to Potential POA abuse, and who to follow up with to obtain more information as these types of indicators emerge.



**Activity:**

See Handout at end of the workbook.

In a new staff training, staff meeting, or program meeting, discuss the following situations. Using the three categories of POA abuse indicators listed above and the examples of each type of abuse provided in the “Define specific types of POA abuse”; identify whether the indicator of possible POA abuse falls under the category of a General, a Client, or a POA Agent indicator of abuse for each situation, and match the situation provided with the description listed.

**Example:**

**Mrs. Smith signed a Power of Attorney six months ago, however, speaking with her daughter, you discover that she was diagnosed as having Alzheimer’s Disease two years ago.**

**Answer: Type of possible POA Abuse indicator-General. From the examples listed in the section above under the heading of “General” indicators of POA abuse this situation most closely resembles the example-  
“Documentation of the onset of the elder’s confusion prior to the signing of the POA”**

**Sample situations:**

1. The agent for Mr. Brown’s Power of Attorney (POA) is his son. Since Mr. Brown’s head injury and subsequent dementia starting 4 years ago, Mr. Brown’s son has been in charge of arranging Mr. Brown’s care. When you visit Mr. Brown, you find his home is filthy, and there are no groceries in his refrigerator. Mr. Brown is a retired Dermatologist who retired from a successful practice after his head injury. You ask Mr. Brown who takes care of him, and he tells you that his son sends someone over once a week, but he does not remember when she last came to his home.
2. Mrs. Ellis’ POA Agent is her niece. After you visited Mrs. Ellis you had questions about her care and finances. You go to see her niece, Leslie about these questions. Leslie seems uncomfortable when you visit her at her home. She does not want to show you Mrs. Ellis’ financial records, and when you ask how much money Mrs. Ellis has in her various accounts, she hesitates, and then says “she has enough”. When you stress the importance of your knowing what Mrs. Ellis’ assets are to assure that she is safe and well cared for, Leslie says “don’t you need a

court order to get that information?'. Soon thereafter, Leslie terminates the meeting, and asks you to leave and not to contact her again.

3. Mrs. Singer was a successful newspaper columnist before she was diagnosed with Multiple Sclerosis 5 years ago. Last year, her son, who is her POA Agent, placed her in a small residential facility. Mrs. Singer's husband had owned a chain of grocery stores, and left them to Mrs. Singer, along with a sizeable life insurance policy which Mrs. Singer was the beneficiary of. When you visit Mrs. Singer, you find her living in a small, rather cramped 6 bed Residential care for the Elderly (RCFE) facility. The home is dimly lit, and you find that Mrs. Singer shares her room with a roommate. Although Mrs. Singer is very unsteady on her feet, she has only a basic wheelchair and no grab bars, walkers, or other durable medical equipment. You ask Mrs. Singer about Physical Therapy and medical follow up and she tells you that her son said that they could not afford for her to have Physical Therapy. You speak to the RCFE manager and ask about the last time that Mrs. Singer saw her physician, and you are told it was two months ago. Since this seems like a long time ago for someone with Mrs. Singer's diagnosis you ask whether she should have more frequent medical care. The manager replies that the physician is a long ways away and they cannot take her there more than quarterly. When you ask about alternate transportation, the manager tells you that the son refuses to pay for other transportation to services.
4. Mr. Lum is angry because the home that he lived in with his wife for more than 30 years has just been sold. Mr. Lum moved in with his brother and made his brother his POA Agent 3 years ago after he was diagnosed with vascular dementia. You are interviewing Mr. Lum, and notice how angry he is. When you ask who he is angry with, he tells you he is angry with the federal government because they raised taxes so high that his brother had to sell his home. Mr. Lum talks at length about how he always paid his taxes before he "got sick", but that last year his brother sold the home and told him that the taxes were too high for them to afford to keep it, despite the fact that they had paying tenants in the home. While you are talking to Mr. Lum, his brother arrives home, parking a large, new looking motor home out front of the house. When you ask Mr. Lum what his brother does for a living, he tells you that his brother is unemployed.

5. You go out to see Mrs. Landry about an allegation that she may be being neglected by her caregiver, Margaret, who is also her Power of Attorney. While you are talking with her, she tells you that her bank is doing a terrible job. When you ask what she means, she tells you that they keep losing her money. She describes several situations of running out of money before her next Social Security check comes in. You ask to see her checkbook, and she asks Margaret to find it. When Margaret eventually finds the checkbook for you, you see that a number of checks are missing and have not been recorded in the register. Ms. Landry does not know where they are, and Margaret says that Mrs. Landry must have “done something with them”. When you look at her banking statement, you notice that some of the missing checks show on the statement as having been made out for ‘cash’. There are three of these checks for cash listed on her statement, each for \$500. Ms. Landry does not remember writing the checks, and says she only gets cash at the ATM. When you ask her what she thinks is happening, she says that Margaret tells her that these are all mistakes made by the bank and there is nothing she can do to fix them.
  
6. You visit Mr. Johns because a neighbor called and said that he is going to be evicted from the home he had been renting for many years. Mr. Johns has severe emphysema, and his Power of Attorney (POA) is a friend and ex-business partner, Marcus. He tells you that he trusts his friend Marcus and that it is “just one of those things” that he has to move because he can’t keep up with the rent. He says that Marcus is going to help him look for a small one bedroom apartment to live in. Mr. Johns shares that he is concerned that he may have to live upstairs. If he lives upstairs he will have trouble getting up the steps because of his emphysema which often causes him to be short of breath. You ask Mr. Johns about assets that he might be able to sell to help him afford his move and his new residence. When you entered you had noticed a large speed boat and trailer in the driveway. When you ask if he could sell the boat he says, “no” that belongs to his old business partner who is his POA. He goes on to tell you that Marcus bought the boat with Mr. Johns’ money as payment for his taking over as Mr. Johns’ POA. Mr. Johns tells you, “I’m glad he has it, he and his kids have such a good time on it. It was his price for becoming my POA and taking care of me.” Mr. Johns tells you that Marcus told him that anyone else would be charging him a lot more to be his POA Agent.

**Discussion:**

In a new staff orientation, or a staff meeting, discuss the kinds of decision making that a client may face when having to identify a POA Agent. Utilizing a recent financial abuse case involving a POA Agent, or one of the situation examples listed above; discuss what may have motivated the client in question to have chosen that particular person for their POA Agent.

After this discussion, ask the group to identify some of the social pressures that may come to bear on a client selecting a POA from family members or friends (i.e. there may be pressure from family members to select a family member rather than a friend as POA Agent). If a trusted friend is selected over family, what conflicts may arise over the client's care, living place, etc.

**Activity:**

Ask for volunteers to role play a family member and a client. In the role play, the family member, who is POA for the client, will be telling the client that they are selling his home and moving him into a small facility. Before the role play begins, tell the family member/POA Agent that although it is a secret from everyone else, the family member/POA Agent is selling the client's home so that they can use the money to buy a larger one for themselves. The role of the family member/POA Agent is to manipulate the client into accepting this change with a minimum of resistance without revealing their actual intentions. Do not tell the person playing the client or those watching the interaction about the 'secret' until the role play is over and then discuss the role play and any similarities to cases they may have had or could have in the future.

### **Learning Objective #3:**

#### **Describe the steps to take in the investigation**

Although all investigations are different, it is important to make sure that all of the required investigative bases have been covered. The following steps in the investigation of POA abuse, barring unusual circumstances, should prove to be the most efficient and fruitful for your investigation if followed:

Step 1-Conduct Preliminary Investigation

Step 2-Verify that the attorney-in-fact has misacted and cross-report to law enforcement

Step 3-Contact legal counsel and/or guardian/conservator

#### **Discussion Questions:**

In a new employee orientation or staff meeting, discuss the considerations and ramifications of each of the steps to investigation listed above. The discussion should involve the following elements listed under each heading (and perhaps others volunteered by the group).

#### **Step 1 – Conduct preliminary investigation, including:**

- Determining relationships
- Interviewing client, alleged perpetrator and collaterals
- Gathering financial records – bank records, trusts, real estate, etc

#### **Step 2 – Verify that the attorney-in-fact has misacted and cross-report to law enforcement**

- Police report
- Compel accounting of Agent

#### **Step 3 – Contact legal counsel and/or Guardian/Conservator**

- Revoke POA/letter of revocation
- Revocation of POA by appointed guardian/conservator
- Alternative arrangements – private fiduciary or case management

**Activity:**

See Handout at end of the workbook.

Read vignette 1a as provided and discuss what was discovered, what the information received may mean, and what the next steps are before reading vignette 1b. Then, discuss the questions at the end of the vignettes.

**Vignette 1a- Mrs. Abrams**

Mrs. Abrams is an 83 year old woman with severe arthritis, and diagnosed with mild cognitive impairment. A report of alleged elder neglect is received stating that she is not being cared for by her daughter, who is also her designated POA Agent. The allegation indicates that the daughter lives with her mother, however, she has not been providing care for her, that the home is filthy and unsanitary, and that the daughter is draining her mother's accounts for her own purposes. There is a concern that the mother may lose her home because she has not been able to make mortgage payments because of her daughter taking all of her money.

After receiving Mrs. Abrams case, you attempt to make face-to-face contact. After repeated visits without contact, you finally get a response. An elderly woman, looking disheveled, answers the door and acknowledges that she is Mrs. Abrams. When you ask to come in and talk with her, she looks frightened, and says that her daughter does not want her bringing people into their home when she is not home. When you ask if this is her daughter's house, she responds that the house still belongs to her, but that her daughter "runs things

now”. When Mrs. Abrams does not feel able to make an appointment to let you come in and talk with her, you ask if there is a phone number where you can reach her daughter. She disappears into the house, and then returns with a dirty piece of paper with a phone number on it. You call her daughter from the porch, and speaking with the daughter in the presence of Mrs. Abrams, you make an appointment to meet with them in their home the next night.

When you visit the home the next night, you are allowed into the home; however, it is obvious that the daughter, who is named Marla, is angry that you are there. She asks many questions about why you are there and who sent you, and you inform her that you cannot reveal the reporting party. Finally you assert yourself that you must speak with Mrs. Abrams alone, and Marla goes into the next room, however, you suspect that she may try to listen in. You ask Mrs. Abrams about her medical condition, when her husband passed away (eight years ago) and her children - she has two daughters, Trina and Marla. Trina lives about an hour away. You do not reveal to Mrs. Abrams or Marla, but Trina is the reporting party that made the abuse report you are responding to. Mrs. Abrams tells you that Marla is doing a good job taking care of her, but admits it is hard since Marla still works as a Kindergarten teacher.

The room where you are speaking to Mrs. Abrams is cluttered, and the carpet is very dirty. You can see through a doorway into the kitchen, and there are numerous food containers and apparently empty soda cans on the counter. When you ask Mrs. Abrams about whether she has a Power of Attorney, Marla bursts into the room (she *WAS* apparently listening outside) holding out the documents. You look over the POA in a cursory manner, and ask for copy of the papers. Marla agrees to make you a copy and send it to you. When you ask to see Mrs. Abrams financial statements Marla initially asks you why you need to see them. When you explain, she says that she can get them together later, and let you see them, but “not right now”.

When you tell Marla and Mrs. Abrams that you would like to look around the house to see that it is safe for Mrs. Abrams, Marla says “no”, and Mrs. Abrams looks anxious. When you explain that seeing the home is an important part of your investigation and that you cannot complete it without seeing the home, Marla says that parts of the house are under construction and that it would not be safe for you to go into them. Marla says that she does not want or need to talk with you. When you do talk further with Marla she reluctantly agrees that you can see the rest of the house “when the work is done”. Marla asks you to leave, and Mrs. Abrams, looking increasingly anxious, says “maybe it’s a

good idea if you go”. You leave, making it clear that you will have to make another visit.

**At this stage in the preliminary investigation:**

- What have you learned about the relationships in Mrs. Abrams life?
- What family member dominates Mrs. Abrams life?
- Does it seem likely that there is some discord between Marla and her sister Trina?
- Does Marla’s hesitance to let you see the financial statements send up any red flags?
- Marla put you off regarding some important information, in addition to seeing the rest of the home, what else do you have to follow up on?
- Marla seems emotionally volatile, and Mrs. Landry may be afraid of her. Do you need to assess for physical or psychological abuse?



#### **Learning Objective #4:**

#### **Identify partners in the field**

#### **Discussion Questions:**

In a new employee training or staff meeting discuss the roles of the following partners that APS workers may work with when investigating or intervening in a case where POA Abuse is part of the case picture. Discuss what each of these partners might do to assist with the APS investigation and what areas of their job function might overlap with an APS worker's job. Also discuss potential conflicts that could arise with regard to evidence gathering, confidentiality, or liability.

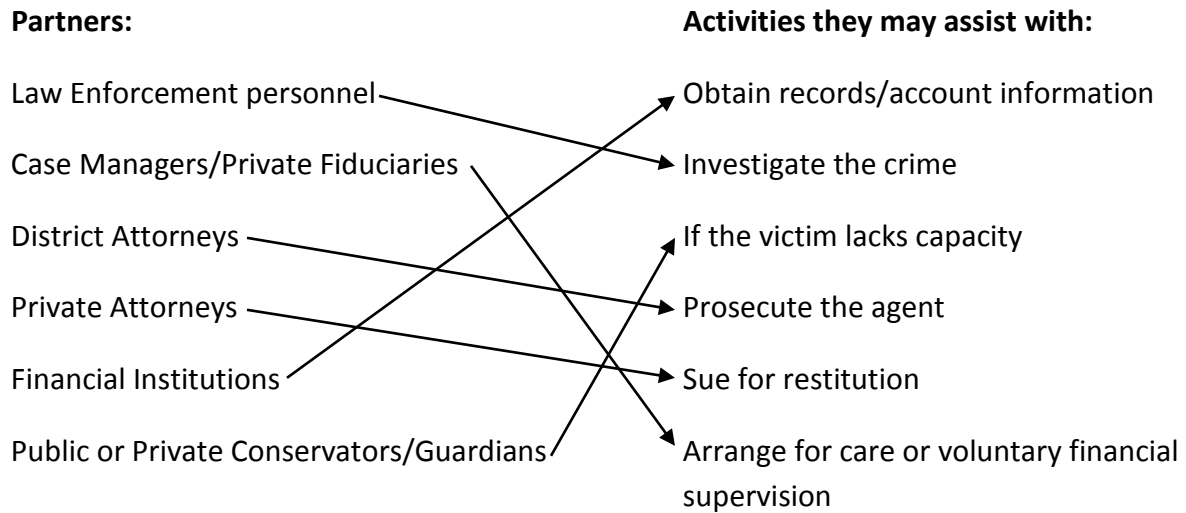
- **Law enforcement**
- **Financial Institutions**
- **Public or Private conservators/guardians**
- **Case Managers and private fiduciaries**
- **District Attorneys**
- **Private attorneys**

**Activity:**

See Handout at end of the workbook.

After discussing the roles of partners that APS workers may encounter when working POA Abuse cases, ask staff to match the following terms with the correct partners. This can be done as a discussion, or printed out as a test or introductory activity leading up to an expanded discussion of partner roles.

**Matching Activity: Match the partner with their function related to an APS/POA Abuse case:**



## **Activity:**

See Handout at end of the workbook.

### **Vignette #1b- Mrs. Abram continued:**

Using Mrs. Abrams case vignette, consider which of the potential partners may be useful in investigating Mrs. Abrams case related to the possible POA Abuse. As a follow up to your initial visit, you discover what you believe is adequate proof that Mrs. Abrams has been a victim of POA Abuse. You have found/identified the following:

- **Mrs. Abrams financial statements reveal that Marla has made numerous purchases for herself, while apparently neglecting Mrs. Abrams needs.**
- **You have involved law enforcement and they have agreed to investigate. The sergeant assigned to the case believes that Marla can be prosecuted; however, he needs more details about her financial accounts and what has been taken.**
- **You are concerned that if you are able to get Marla away from the home Mrs. Abrams will need further care and assistance with her finances.**
- **Since so many of Mrs. Abrams financial resources are gone, you would like her to be able to recoup some of her funds if possible.**
- **As Mrs. Abrams' mental status seems to you to be deteriorating and you are concerned that she may no longer be able to care for herself.**

Utilizing information on the suggested steps for investigating financial abuse/POA Abuse and the list of potential partners in POA Abuse investigations:

- Identify which partners you would involve, and for what purposes.
- Identify your goals for involving each partner, and what the desired outcome of involving them would be.
- Assuming that the investigation reveals that Marla can be prosecuted for crimes related to POA Abuse, what information might the district attorney need from these various partners to prosecute the case against Marla?

## **Conclusion**

Power of Attorney abuse cases can be difficult to investigate, and difficult to intervene in. There are so many cases where clients appear to need a Power of Attorney, or some other form of legal protection, that there is a tendency to assume that if someone in need has a Power of Attorney in place, they must be safe and well cared for. Unfortunately, Powers of Attorney, like other forms of legal protection do not guarantee successful protection, and they cannot identify unscrupulous persons that might misuse their authority or those that may accept the Power of Attorney agent responsibility without understanding it or being able to fulfill its requirements.

Sometimes relatives, or other interested parties may not have sought out the role of Power of Attorney Agent, but rather accepted it without considering all that the role may entail. Sometimes these people simply cannot or will not fulfill their responsibilities. In other cases, Power of attorney abuse may be part of a plan to defraud someone, or may influence a POA Agent to 'cash in' on his or her inheritance before their loved one is deceased.

Whatever the precipitating factors that have led to power of Attorney abuse, the APS worker may be the only person, or the pivotal person in learning about the abuses that are occurring and intervening to stop them. The APS worker's ability to listen carefully to the client, to assess the situation objectively, but thoroughly, and involving partners in the investigation or intervention as appropriate, are essential for protecting vulnerable adults or elders that may have fallen into neglectful or dangerous circumstances related to a their Power of Attorney.



## Handout

### Activity #1-Power of Attorney Abuse

In a new staff training, staff meeting, or program meeting, discuss the following situations. Using the three categories of POA abuse indicators listed above and the examples of each type of abuse provided in the “Define specific types of POA abuse”; identify whether the indicator of possible POA abuse falls under the category of a General, a Client, or a POA Agent indicator of abuse for each situation, and match the situation provided with the description listed.

#### Example:

**Mrs. Smith signed a Power of Attorney six months ago, however, speaking with her daughter, you discover that she was diagnosed as having Alzheimer’s Disease two years ago.**

**Answer: Type of possible POA Abuse indicator-General. From the examples listed in the section above under the heading of “General” indicators of POA abuse this situation most closely resembles the example-“Documentation of the onset of the elder’s confusion prior to the signing of the POA”**

#### Sample situations:

1. The agent for Mr. Brown’s Power of Attorney (POA) is his son. Since Mr. Brown’s head injury and subsequent dementia starting 4 years ago, Mr. Brown’s son has been in charge of arranging Mr. Brown’s care. When you visit Mr. Brown, you find his home is filthy, and there are no groceries in his refrigerator. Mr. Brown is a retired Dermatologist who retired from a successful practice after his head injury. You ask Mr. Brown who takes care of him, and he tells you that his son sends someone over once a week, but he does not remember when she last came to his home.
2. Mrs. Ellis’ POA Agent is her niece. After you visited Mrs. Ellis you had questions about her care and finances. You go to see her niece, Leslie about these questions. Leslie seems uncomfortable when you visit her at her home. She does not want to show you Mrs. Ellis’ financial records, and when you ask how much money Mrs. Ellis has in her various accounts, she hesitates, and then says “she has enough”. When you stress the importance of your knowing what Mrs. Ellis’ assets are to assure that she is safe and well cared for, Leslie says “don’t you need a court order to get that information?”. Soon thereafter, Leslie terminates the meeting, and asks you to leave and not to contact her again.

3. Mrs. Singer was a successful newspaper columnist before she was diagnosed with Multiple Sclerosis 5 years ago. Last year, her son, who is her POA Agent, placed her in a small residential facility. Mrs. Singer's husband had owned a chain of grocery stores, and left them to Mrs. Singer, along with a sizeable life insurance policy which Mrs. Singer was the beneficiary of. When you visit Mrs. Singer, you find her living in a small, rather cramped 6 bed Residential care for the Elderly (RCFE) facility. The home is dimly lit, and you find that Mrs. Singer shares her room with a roommate. Although Mrs. Singer is very unsteady on her feet, she has only a basic wheelchair and no grab bars, walkers, or other durable medical equipment. You ask Mrs. Singer about Physical Therapy and medical follow up and she tells you that her son said that they could not afford for her to have Physical Therapy. You speak to the RCFE manager and ask about the last time that Mrs. Singer saw her physician, and you are told it was two months ago. Since this seems like a long time ago for someone with Mrs. Singer's diagnosis you ask whether she should have more frequent medical care. The manager replies that the physician is a long ways away and they cannot take her there more than quarterly. When you ask about alternate transportation, the manager tells you that the son refuses to pay for other transportation to services.
  
4. Mr. Lum is angry because the home that he lived in with his wife for more than 30 years has just been sold. Mr. Lum moved in with his brother and made his brother his POA Agent 3 years ago after he was diagnosed with vascular dementia. You are interviewing Mr. Lum, and notice how angry he is. When you ask who he is angry with, he tells you he is angry with the federal government because they raised taxes so high that his brother had to sell his home. Mr. Lum talks at length about how he always paid his taxes before he "got sick", but that last year his brother sold the home and told him that the taxes were too high for them to afford to keep it, despite the fact that they had paying tenants in the home. While you are talking to Mr. Lum, his brother arrives home, parking a large, new looking motor home out front of the house. When you ask Mr. Lum what his brother does for a living, he tells you that his brother is unemployed.
  
5. You go out to see Mrs. Landry about an allegation that she may be being neglected by her caregiver, Margaret, who is also her Power of Attorney. While you are talking with her, she tells you that her bank is doing a terrible job. When you ask what she means, she tells you that they keep losing her money. She describes several situations of running out of money before her next Social Security check comes in. You ask to see her

checkbook, and she asks Margaret to find it. When Margaret eventually finds the checkbook for you, you see that a number of checks are missing and have not been recorded in the register. Ms. Landry does not know where they are, and Margaret says that Mrs. Landry must have “done something with them”. When you look at her banking statement, you notice that some of the missing checks show on the statement as having been made out for ‘cash’. There are three of these checks for cash listed on her statement, each for \$500. Ms. Landry does not remember writing the checks, and says she only gets cash at the ATM. When you ask her what she thinks is happening, she says that Margaret tells her that these are all mistakes made by the bank and there is nothing she can do to fix them.

6. You visit Mr. Johns because a neighbor called and said that he is going to be evicted from the home he had been renting for many years. Mr. Johns has severe emphysema, and his Power of Attorney (POA) is a friend and ex-business partner, Marcus. He tells you that he trusts his friend Marcus and that it is “just one of those things” that he has to move because he can’t keep up with the rent. He says that Marcus is going to help him look for a small one bedroom apartment to live in. Mr. Johns shares that he is concerned that he may have to live upstairs. If he lives upstairs he will have trouble getting up the steps because of his emphysema which often causes him to be short of breath. You ask Mr. Johns about assets that he might be able to sell to help him afford his move and his new residence. When you entered you had noticed a large speed boat and trailer in the driveway. When you ask if he could sell the boat he says, “no” that belongs to his old business partner who is his POA. He goes on to tell you that Marcus bought the boat with Mr. Johns’ money as payment for his taking over as Mr. Johns’ POA. Mr. Johns tells you, “I’m glad he has it, he and his kids have such a good time on it. It was his price for becoming my POA and taking care of me.” Mr. Johns tells you that Marcus told him that anyone else would be charging him a lot more to be his POA Agent.

## Handout

### Power of Attorney Abuse-Activity #2

#### Activity:

#### Vignette 1a- Mrs. Abrams:

Mrs. Abrams is an 83 year old woman with severe arthritis, and diagnosed with mild cognitive impairment. A report of alleged elder neglect is received stating that she is not being cared for by her daughter, who is also her designated POA Agent. The allegation indicates that the daughter lives with her mother, however, she has not been providing care for her, that the home is filthy and unsanitary, and that the daughter is draining her mother's accounts for her own purposes. There is a concern that the mother may lose her home because she has not been able to make mortgage payments because of her daughter taking all of her money.

After receiving Mrs. Abrams case, you attempt to make face-to-face contact. After repeated visits without contact, you finally get a response. An elderly woman, looking disheveled, answers the door and acknowledges that she is Mrs. Abrams. When you ask to come in and talk with her, she looks frightened, and says that her daughter does not want her bringing people into their home when she is not home. When you ask if this is her daughter's house, she responds that the house still belongs to her, but that her daughter "runs things now". When Mrs. Abrams does not feel able to make an appointment to let you come in and talk with her, you ask if there is a phone number where you can reach her daughter. She disappears into the house, and then returns with a dirty piece of paper with a phone number on it. You call her daughter from the porch, and speaking with the daughter in the presence of Mrs. Abrams, you make an appointment to meet with them in their home the next night.

When you visit the home the next night, you are allowed into the home; however, it is obvious that the daughter, who is named Marla, is angry that you are there. She asks many questions about why you are there and who sent you, and you inform her that you cannot reveal the reporting party. Finally you assert yourself that you must speak with Mrs. Abrams alone, and Marla goes into the next room, however, you suspect that she may try to listen in. You ask Mrs. Abrams about her medical condition, when her husband passed away (eight years ago) and her children - she has two daughters, Trina and Marla. Trina lives about an hour away. You do not reveal to Mrs. Abrams or Marla, but Trina is the reporting party that made the abuse report you are responding to. Mrs. Abrams tells you that Marla is doing a good job taking care of her, but admits it is hard since Marla still works as a Kindergarten teacher.

The room where you are speaking to Mrs. Abrams is cluttered, and the carpet is very dirty. You can see through a doorway into the kitchen, and there are numerous food containers and



apparently empty soda cans on the counter. When you ask Mrs. Abrams about whether she has a Power of Attorney, Marla bursts into the room (she *WAS* apparently listening outside) holding out the documents. You look over the POA in a cursory manner, and ask for copy of the papers. Marla agrees to make you a copy and send it to you. When you ask to see Mrs. Abrams financial statements Marla initially asks you why you need to see them. When you explain, she says that she can get them together later, and let you see them, but “not right now”.

When you tell Marla and Mrs. Abrams that you would like to look around the house to see that it is safe for Mrs. Abrams, Marla says “no”, and Mrs. Abrams looks anxious. When you explain that seeing the home is an important part of your investigation and that you cannot complete it without seeing the home, Marla says that parts of the house are under construction and that it would not be safe for you to go into them. Marla says that she does not want or need to talk with you. When you do talk further with Marla she reluctantly agrees that you can see the rest of the house “when the work is done”. Marla asks you to leave, and Mrs. Abrams, looking increasingly anxious, says “maybe it’s a good idea if you go”. You leave, making it clear that you will have to make another visit.

**At this stage in the preliminary investigation:**

- **What have you learned about the relationships in Mrs. Abrams life?**
- **What family member dominates Mrs. Abrams life?**
- **Does it seem likely that there is some discord between Marla and her sister Trina?**
- **Does Marla’s hesitation to let you see the financial statements send up any red flags?**
- **Marla put you off regarding some important information, in addition to seeing the rest of the home, what else do you have to follow up on?**
- **Marla seems emotionally volatile, and Mrs. Landry may be afraid of her. Do you need to assess for physical or psychological abuse?**

## Handout

### Power of Attorney Abuse-Activity #3

After discussing the roles of partners that APS workers may encounter when working POA Abuse cases, ask staff to match the following terms with the correct partners. This can be done as a discussion, or printed out as a test or introductory activity leading up to an expanded discussion of partner roles.

**Matching Activity: Match the partner with their function related to an APS/POA Abuse case:**

#### Partners:

Law Enforcement personnel

Case Managers/Private Fiduciaries

District Attorneys

Private Attorneys

Financial Institutions

Public or Private Conservators/Guardians

#### Activities they may assist with:

Obtain records/account information

Investigate the crime

If the victim lacks capacity

Prosecute the agent

Sue for restitution

Arrange for care or voluntary financial supervision

## Handout

### Power Of Attorney Abuse-Activity #4

#### Vignette #1b- Mrs. Abrams continued:

Using Mrs. Abrams case vignette, consider which of the potential partners may be useful in investigating Mrs. Abrams case related to the possible POA Abuse. As a follow up to your initial visit, you discover what you believe is adequate proof that Mrs. Abrams has been a victim of POA Abuse. You have found/identified the following:

- **Mrs. Abrams financial statements reveal that Marla has made numerous purchases for herself, while apparently neglecting Mrs. Abrams needs.**
- **You have involved law enforcement and they have agreed to investigate. The sergeant assigned to the case believes that Marla can be prosecuted; however, he needs more details about her financial accounts and what has been taken.**
- **You are concerned that if you are able to get Marla away from the home Mrs. Abrams will need further care and assistance with her finances.**
- **Since so many of Mrs. Abrams financial resources are gone, you would like her to be able to recoup some of her funds if possible.**
- **As Mrs. Abrams' mental status seems to you to be deteriorating and you are concerned that she may no longer be able to care for herself.**

Utilizing information on the suggested steps for investigating financial abuse/POA Abuse and the list of potential partners in POA Abuse investigations:

- Identify which partners you would involve, and for what purposes.
- Identify your goals for involving each partner, and what the desired outcome of involving them would be.
- Assuming that the investigation reveals that Marla can be prosecuted for crimes related to POA Abuse, what information might the district attorney need from these various partners to prosecute the case against Marla?