

## Minnesota Department of Commerce Guidance on Privacy Laws and the Reporting of Financial Abuse of Older Adults

The Minnesota Department of Commerce encourages Minnesota's financial institutions to join the effort to protect Minnesota's older adults from financial abuse. Minnesota's financial institutions, especially state chartered banks and credit unions familiar with their older customers, are in a unique position to spot irregular transactions, account activity, or behavior. Financial institutions are on the front lines to help stop financial abuse of senior citizens, identifying irregularities in a customer's financial activity and reporting it to the appropriate authorities.

The Commerce Department is providing the following guidance to the state's financial institutions to clarify that, under [Section 502\(e\) of the Gramm-Leach-Bliley Act \(GLBA\)](#) (.pdf), there are a variety of exceptions to the general rule prohibiting financial institutions from disclosing nonpublic personal information to non affiliated third parties without notice or an opt-out disclosure. Under Section 502(e) if an exception applies, a financial institution may disclose information to nonaffiliated third parties without first complying with certain notice and opt-out disclosures.

The Commerce Department is providing guidance recognizing that disclosing nonpublic personal information, for the purpose of reporting suspected financial abuse of older adults, falls under one or more of these exceptions when the information is provided to local, state, or federal agencies.

In addition, [Minnesota Statute section 626.557](#), subdivision 5a states that, "Financial institutions shall cooperate with a lead investigative agency, law enforcement, or prosecuting authority that is investigating maltreatment of a vulnerable adult and comply with reasonable requests for the production of financial records as authorized under section 13A.02, subdivision 1. Financial institutions are immune from any civil or criminal liability that might otherwise result from complying with this subdivision."

Throughout the United States and Minnesota, older adults are routinely targeted victims of financial abuse. The last survey by the Investor Protection Trust (IPT) showed that one out of every five citizens over the age of 65 has been victimized by a financial swindle. According to the IPT, con artists scam senior citizens out of \$2.5 billion every year. Financial abuse is defined as the illegal or improper use of an older adult's property, funds or assets. Due to isolation, cognitive decline, physical limitations, health problems and/or recent loss of a loved one or friends, seniors are extremely vulnerable. With their significant assets, equity in their homes and steady incomes from retirement funds, older adults are prime targets for scam artists, including scammers operating on the internet, telemarketing, home repair, financial advisers and fiduciaries, i.e. guardians and people holding powers of attorney. Unfortunately, many times family members and caretakers who have unfettered access to senior citizens and their savings are the only contact these individuals have with anyone on a daily or weekly basis. Sometimes the trust placed in family and caretakers can be misplaced resulting in loss of the assets of older adults.

Financial institutions can help stop financial abuse of older adults when they identify incidents and report to them to the appropriate authorities. Prompt reporting of suspected financial exploitation to law enforcement, protective services, and/or a long-term care ombudsman can trigger appropriate intervention, prevention of financial losses, and other remedies.

To protect Minnesota's older adults from financial abuse, the Commerce Department encourages Minnesota's financial institutions to follow this guidance and to train its staff and customers on how to spot fraud. Outreach programs in your communities can be achieved by using handouts and other material that are available for use. [The Reporting Financial Abuse of Older Adults](#) (.pdf) brochure can be used by your staff and customers to bring

awareness to the signs of elder financial abuse.

## **Possible Signs of Financial Abuse of Older Adults**

Erratic or unusual banking transactions or change in banking patterns:

- Frequent large withdrawals, including daily maximum cash withdrawals from ATM's
- Frequent non-sufficient fund activity, unusual for the account
- Abnormal nonpayment for normal services, such as utilities and insurance, indicating a loss of funds or access to funds
- Debit transactions that are not normal for an older adult
- Uncharacteristic attempts to wire large sums of money
- Closing of CDs or accounts without regard to penalties
- A caregiver or other individual showing interest in the older adult's finances or assets
- An individual not allowing the older adult to speak for him/herself
- A caregiver not willing to allow the older adult to have a conversation alone
- The older adult shows unusual degree of fear or submissiveness toward a caregiver
- The older adult expresses fear of eviction or nursing home placement if money is not given to the caretaker
- The financial institution is unable to speak directly with the older adult, despite repeated attempts to contact the person
- A new family member, caretaker, or friend suddenly begins conducting financial transactions on behalf of the older adult without proper documentation
- The older adult abandons current relationship in exchange for new "friends"
- A sudden change in the elder's financial management, such as a new power of attorney or a new family member or individual, and
- The older adult lacks knowledge about his/her financial status or shows a reluctance to discuss financial matters.