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EL DORADO PLAZA SACRAMENTO YOLA

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Preying on the elderly

Complaints of abuse, fraud, neglect expected to increase as boomers age

Sacramento Business Journal - by [Kathy Robertson](#) Staff writer

Johnnie Esco was recovering from pneumonia when she went to **El Dorado Convalescent Hospital** to gain strength before returning home.

She had developed an impacted bowel at the hospital and needed ongoing care.

Although the nursing home allegedly billed Medicare more than \$8,000 for skilled nursing care and rehabilitation during her 13 days there last year, she left in an ambulance, her abdomen enlarged and rigid, according to a lawsuit filed on behalf of her family.

Seventeen hours after the 77-year-old arrived at **Marshall Hospital**, she died.

Complaints of this kind of alleged elder abuse, fraud and neglect are common in the Sacramento region and nationwide — and are expected to increase as 78 million baby boomers age and become vulnerable.

Some seniors are injured or lose their lives from poor or negligent health care; others lose thousands of dollars in scams that run the gamut from Ponzi schemes and fraudulent property tax assessments to fast-talking salespeople selling unneeded roof repair.

Last week, California Attorney General Jerry Brown announced the arrest of three Northern California men who “callously swindled” thousands of individuals, including many area retirees who lost their life savings, in an apparent \$200 million Ponzi scheme that continued for more than 10 years.

The alleged scam began with “seminars” peddling investments in construction and real estate projects across California. After the projects lost money, the men used investors’ money to buy assisted-living centers — including one in Roseville — and flip them to affiliate companies that sold shares in the properties as more “investment opportunities.”

Defendants bought an 80-acre estate near Redding, a Lear jet, luxury vehicles and enjoyed lavish vacations until **Asset Real Estate and Investment Co.** collapsed last year under a mountain of debt.

Many incidents go unreported

Elder abuse is defined as physical or financial abuse, neglect, abandonment, isolation or other treatment that results in physical harm, mental suffering or deprivation. “Elders” are defined under the law as people age 65 and older. Complaints go to advocacy groups, law enforcement, state regulators and attorneys who specialize in elder law.

“It’s getting worse,” said Carole Herman, president and founder of the **Foundation Aiding the Elderly**, a Sacramento-based elder abuse advocacy organization for nursing home residents and their families. “I’m so inundated, it’s ridiculous.”

MEDIA



Elder abuse cases in Sacramento region



*Does not include convictions in El Dorado County
 Source: District attorney offices in El Dorado, Placer, Sacramento and Yuba counties

Caregiver fraud

- WARNING SIGNS**
- Unusual activity in bank and credit card accounts
 - Caregiver tries to isolate the victim, who comes to rely solely on the caregiver
 - Caregiver has total control over finances and has all financial statements mailed to him or her
 - New acquaintances appear on the scene and the adult is either completely charmed, or fearful of the caregiver
- PREVENTATIVE STEPS**
- If your power of attorney or anyone else suggests you make a change in your assets, your investments, or insurance, always get two or three other opinions. Only a potential crook will not want you to discuss the change with others.
 - No matter how much you know, love or trust someone, never sign papers you have not read or do not understand.
 - Even if you have a representative who manages your finances, insist on receiving and reviewing copies of all bank and financial statements.
- Source: CAFE Foundation (Yuba County District Attorney's Office)

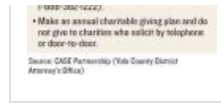


Fraud prevention checklist

- Use a clear-lensing pouch and/or hidden wallet, instead of a purse.
- Don't carry your Social Security card, remove Social Security numbers from ID/health cards, and consider carrying a photocopy of your Medicare card with all but the last four digits blacked out.
- Deposit all outgoing mail inside the Post Office rather than placing in your mailbox or the postal box for carrier pickup.
- Use a cross-cut shredder on all financial mail and documents.
- Get a free copy of your credit report once a year.
- Sign up for the National DO NOT CALL list (the.gov/donotcall) or by calling

Herman is not alone.

“My practice is growing, for sure,” said Ed Dudensing, a plaintiff’s attorney in Sacramento who specializes in nursing home abuse. “We deal with these cases all day long.”



It’s tough to track the numbers because there is no central reporting system or database — and most abuse isn’t reported at all. Seniors might not know what is happening, be embarrassed or the abuse is by family members that victims won’t turn in.

For each financial abuse case reported, four or more go unreported, according to a March study by the **MetLife Mature Market Institute** that estimates elder financial abuse costs older Americans more than \$2.6 billion a year.

Vulnerability and high net-worth make seniors a prime target for abuse, the report concludes.

District attorneys in the four-county Sacramento region got more than 360 referrals of suspected elder abuse in 2008 that led to 162 complaints filed and more than 135 convictions. Many were cases of financial abuse committed by family members.

That’s down from 458 referrals, 203 complaints filed and more than 189 convictions in 2007, but the numbers are a little misleading because it often takes more than a year to prosecute a case.

The Sacramento County Sheriff’s Department and Sacramento city police report a steady increase in elder crime reports since 1995, said Shelly Orio, a spokeswoman for the Sacramento County District Attorney’s Office. “There are ebbs and flows from year to year, but overall, cases are increasing.”

Taking grandma's checkbook

Trusting a kid he coached in high school cost a 78-year-old Roseville man \$700,000.

Touched by pleas for help from Josh Correa, Jerry Williams lent him increasing amounts of money and was stiffed by growing credit card debt and a second mortgage on his house — neither of which he knew about.

Correa was convicted of felony financial abuse and felony theft charges last year. He was sentenced to seven years in state prison and required to pay restitution.

“We got a lot of it back,” said Karin Bjork, supervising Deputy District Attorney of the Family Protection Unit in Placer County.

In another case, a Placer County man was convicted last year for collecting money for medical supplies but not delivering the equipment.

More complaints have been filed in recent years because law enforcement has expanded outreach and education programs, so there is more awareness of the problem, Bjork said.

“It’s not just physical, but financial abuse — and neglect, leading to death,” she said. “It’s a rare week we don’t get a referral.”

Three-quarters of the complaints in Yolo County are financial abuse cases, with family members taking advantage of grandma’s checkbook or using her credit cards without permission, said Dave Edwards, enforcement officer with the county District Attorney’s Office.

“Seems like more and more fraud cases,” he said. “It may be the economy.”

In February, a Los Angeles company mailed notices resembling tax bills to home-owners in Yolo and other Northern California counties offering property value review services for \$179.

The catch: The county assessor’s office and Assessment Appeals Board does it for free.

“It looked legitimate unless you looked at it carefully,” said Edwards, who spends a significant amount of time talking to public groups about how to detect this kind of scam.

Older folks are trusting, have good manners and are often slow to believe they've been scammed, Edwards said.

"One guy bought two Kirby vacuums in a year for \$2,900," he sighed.

"One guy was home alone, wiring money to Bermuda. **Western Union** finally stopped sending it," Edwards said. But the senior still didn't believe he was being scammed. "I had a Woodland police officer come over in uniform so he'd know we were serious."

Placer County has seen a lot of construction work scams this year, acting assistant district attorney Scott Owens said.

"An alleged contractor stops at a house, says he sees something needs to be done to, say, the roof — then goes up there, starts tearing things down and says, 'You owe us money,'" Scott said. "It's very hard to catch."

Staff cuts hurt

Criminals are even harder to catch when budget cuts decimate law enforcement and regulatory staff.

In a little-publicized line-item veto in September, Gov. Arnold Schwarzenegger eliminated state funding for California's long-term-care ombudsman program. The \$3.8 million cut represents half the funding for a program that investigates elder abuse and other complaints on behalf of 250,000 residents in California's 1,300 nursing homes and more than 8,000 assisted-living facilities.

The cut came days after the federal government issued a report condemning conditions in nursing homes. In California, 99.1 percent of nursing homes had deficiencies in 2007 and they had an average of 11.8 deficiencies each. The rate is second in the nation to Wyoming, which had 12.3, according to a Sept. 18 report by Inspector General Daniel Levinson.

Some regional ombudsman offices were closed in Northern California due to the funding cuts, and 14 of 22 employees were laid off, regional manager Joan Parks said.

Staff used to go into nursing homes once a week, but cut back to once a month. Visits to assisted-living facilities went from monthly to quarterly. The goal of the program is to offer a forum for complaints and work with management and staff to fix them.

"Residents don't realize they have a right to air conditioning when it gets hot and fresh food," Parks said. "And they are worried about retaliation."

Two things happen in a bad economy, Parks said.

There's more financial abuse by family members who have to choose between paying fees for mom's board and care or putting food on the table. And facilities start cutting corners.

"(Families) need to watch to make sure the air conditioning is turned on when it gets hot," Parks said. "And I've seen one place literally cutting napkins in half."

Most try to provide good care

Nursing homes are a target for lawsuits due to a spotty historical record and because they care for a large number of residents. Growth of the assisted-living industry has made it a target, too.

There are more than 7,000 nursing home beds in the Sacramento region and more than 17,400 assisted-living beds.

Most strive to provide good care, treat residents with compassion and meet the needs of a fragile population with a wide mix of medical problems.

"It's unacceptable when abuse or neglect of any kind occurs in a long-term care facility or in the community," Deborah Pacyna, a spokeswoman for the **California Association of Health Facilities**, wrote in an e-mail. "Because long-term care providers are entrusted with the care of frail and vulnerable people, we feel strongly that it is our responsibility to ensure that any instance of

abuse, however rare, is prevented.”

The trade group helped pass legislation that established a system for criminal background checks for initial applicants for nursing assistant or home health aide certification, Pacyna said. CAHF also backed a law that gave state regulators authority to conduct fingerprint background checks and put some teeth into enforcement.

The tab for even suspected abuse goes far beyond the victims.

Area nursing homes and other facilities generally settle lawsuits rather than chance a large jury verdict. Local settlements have reached at least \$4.5 million. The big paydays have attracted some attorneys to the field who know less about long-term care, sources say.

“Personal injury attorneys feel like it’s shooting fish in a barrel, but it’s complicated and nursing homes have become more sophisticated in defending these cases,” said Sacramento lawyer Wendy York, who specializes in elder law. “It’s a different world than it was five years ago.”

New enforcement unit in region

The state Department of Public Health, which oversees nursing homes, investigates complaints and issues citations and fines if it substantiates violations.

Criticized for slow and inadequate enforcement, state regulators were slapped with a lawsuit that demanded timely investigation of nursing home complaints. A settlement reached with **California Advocates for Nursing Home Reform** in 2006 requires the state to initiate a response to complaints within 10 days.

The state achieves that standard in 99 percent of the complaints filed, DPA deputy director Kathleen Billingsley said. If investigators believe a patient is in serious harm, regulators respond within 24 hours.

“Abuse in long-term care is absolutely unacceptable,” she said.

About 200 additional surveyors have been hired in the past three years, Billingsley said, increasing survey staff to about 500. The Licensing and Certification program that oversees long-term care has an annual budget of about \$150 million.

The department is hiring six people for a special unit in Sacramento to oversee audits and review enforcement to ensure consistency statewide, Billingsley said.

‘A speed limit with no cops’

Advocates for the elderly say the state still doesn’t do enough to clean up bad actors in the industry.

“It’s called ‘the most regulated industry,’ ” said Lesley Clement, a Sacramento attorney who has represented seniors for 15 years and filed the lawsuit on behalf of Johnnie Esco’s family. “That’s like having a speed limit and no cops.”

Repeated calls to Rocklin-based **Horizon West Healthcare Inc.**, the company that owns El Dorado Convalescent Hospital, were not returned. Neither were calls to Michael LeVangie, the Sacramento attorney who represents Horizon West in the Esco lawsuit.

The toll on families can be huge.

A year after her death, Donald Esco hasn’t accepted the fact that his wife, Johnnie, is gone. The couple was married for more than 60 years.

“I’m very adamant about having the laws on elder abuse changed; there’s not enough teeth in the law,” Esco said. “I will devote the rest of my life and funds ... to make sure these unwanted deaths through neglect and abuse end.”

Some see promise in the baby boom generation.

“They’ve always been activists,” said Sanford Horowitz, a Sonoma elder law attorney who won a \$401,000 settlement against a Sacramento nursing home in March. “Baby boomers — if they realize it is them — will take it more and more seriously and demand better care.”

Resources for seniors

- The state Employment Development Department offers information about job-related programs for senior workers and employers who want to hire them. Contact: <http://158.96.229.240/eddsweb.asp>.
- The California Department of Insurance’s Senior Information Center offers an online tool for California seniors who have questions about insurance. Contact: insurance.ca.gov/0150-seniors/0300healthplans.
- AARP — a nonprofit, nonpartisan organization — helps people 50 and over improve the quality of their lives. The organization has 40 million members nationwide. Contact: The California state office in Sacramento at 866-448-3614 or aarp.org.
- The Conference Board offers an online database for employers, workers, researchers and others to locate examples of specific actions businesses have taken to address the challenges presented by the mature work force. Contact: conference-board.org/knowledge/knowledgeDB/matureWorkforce.cfm.
- The [Alliance for Aging Research](http://agingresearch.org) advances scientific and medical discoveries to maximize healthy aging, independence and quality of life for older Americans. Contact: agingresearch.org
- [The Mini Medical School](http://www.ucdmc.ucdavis.edu/minimed) at UC Davis is a public education program on aging issues, disease prevention and health. Contact: 916-734-6441 or www.ucdmc.ucdavis.edu/minimed.
- The Medicare nursing home comparison Web site rates 16,000 nursing homes that accept federal funding. Contact: medicare.gov/nhcompare
- AgeWave, a Web site for aging issues and information. Contact: agewave.com.
- Ageless in America, a Web site developed by career management consultants. Contact: AgelessinAmerica.com.
- Search online for jobs for older workers at wiserworker.com.
- The Senior List offers reviews of services for senior citizens, ranging from home care to senior housing, elder-law attorneys and geriatric care managers. Contact: theseniorlist.com.
- Boomster is an online social network for baby boomers. Contact: boomster.com.

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