

ELDER ABUSE

Pocket Reference

A Medical/Legal Resource
for California Judicial Officers



JUDICIAL COUNCIL
OF CALIFORNIA

ADMINISTRATIVE OFFICE
OF THE COURTS



CENTER OF EXCELLENCE
ON ELDER ABUSE AND NEGLECT
UNIVERSITY OF CALIFORNIA, IRVINE



PROGRAM IN GERIATRICS
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INTRODUCTION

The concept for this “Pocket Reference” was born out of the idea that it would be helpful for judicial officers who see elders in their courts to have easy access to relevant medical and legal information regarding elder abuse. Judges interact with older adults who participate in court as parties, jurors, witnesses, victims, conservatees, and defendants. Abuse may be a factor affecting an elder who is appearing in any of these roles. Judicial officers will need to be aware of elder abuse whether concerns about abuse are brought before the court directly or arise indirectly.

This guide is intended to serve as a concise resource for judicial officers involved in the criminal, civil, family law, probate and mental health courts. The legal portion provides a limited discussion of protective orders available to address elder abuse and a very brief description of conservatorships. The guide also reviews judicial system issues and responses to elder abuse, and references relevant provisions of the California Code. The medical portion includes an overview of characteristic elements of physical abuse and how they are evaluated, and information on assessing elders’ cognition and functional abilities. It briefly describes the most common medical conditions facing the geriatric population, and lists medications commonly prescribed for elders. This Pocket Reference is intended for informational purposes only.

Note: The focus of this Pocket Reference is elder abuse. Although the Elder Abuse and Dependent Adult Civil Protection Act also addresses protections for dependent adults, the specialized information pertaining to dependent adults is beyond the scope of this guide and therefore is not included.

Legal Information



I. ELDER ABUSE *and the* COURTS

A. Elder Population Demographics and Elder Abuse

ELDER CALIFORNIANS

- California currently has more than 4.2 million people age 65 and older, 11.4% of the state's population and the largest number of elders of any state in the country.
- The number of Californians ages 65 and older is increasing; elders who are more than 80 years old represent the fastest-growing segment of the population.
- In 2020, when the population of Californians age 65 and older increases to more than 6.1 million (15% of the total population), nearly one million of those elders will be at least 85 years old.
- By 2040, there will be nearly 9.7 million California elders 65 years old and older (20% of the population).
- Approximately 13% of people age 65 and older, and nearly half of people 85 and older, have Alzheimer's disease.

SOURCE: California Department of Finance, *Interim Population Projections for California and Its Counties 2010-2050*, May 2012.

www.dof.ca.gov/research/demographic/reports/projections/interim/view.php

As our state's population ages, more elders will appear in court. Medical and psychological issues will be a factor in many cases since increased life expectancy carries an increased likelihood of living with chronic disease, Alzheimer's, and other health problems associated with old age. Some of these court cases will also involve elements of physical, mental, and financial abuse of elders.

Elder abuse is a somewhat hidden problem in society and in the justice system and may be an underlying factor in a variety of court cases involving older persons.

In California:

- The Department of Justice estimates that 1 in 20 elders is a victim of neglect or physical, psychological, or financial abuse.
- Most abuse occurs in elders' homes or other domestic settings.
- Adult Protective Services (APS) agencies received more than 110,000 reports of elder and dependent adult abuse in 2006-07.
- For every reported case of elder abuse, it is estimated that five cases are never reported.

Impact of elder abuse:

- Earlier morbidity for the elder, with the risk of death three times higher than for non-victims.
- Significant health effects, including declining functional abilities; this often leads to progressive dependency, social isolation, a sense of helplessness, and a cycle of worsening stress and psychological decline.

B. Elements of Elder Abuse

1) ABUSIVE ACTIONS

Elder abuse:

- encompasses a range of conduct by an alleged abuser;
- results in the mistreatment or exploitation of an older adult;
- causes harm or creates a serious risk of harm.

This mistreatment, exploitation or neglect is usually intentional but occasionally may be unintentional. In many cases, elder abuse is not a single act but a series of actions or failures to act that cause harm to an elderly person. Situations that come before the court often involve more than one type of abuse.

The Elder Abuse and Dependent Adult Civil Protection Act (EADACPA), (Welfare & Institutions Code §§15600-15675), California’s statutory scheme protecting elder and dependent adults from abuse by caretakers and others, defines abuse of an elder or dependent adult to mean the following (Welfare & Institutions Code §15610.07):

(a)		(b)
<ul style="list-style-type: none"> • Physical abuse • Neglect • Financial abuse • Abandonment • Isolation • Abduction, or • Other treatment with resulting physical harm or pain or mental suffering. 	<i>and/or</i>	<p>The deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.</p>

Welfare & Institutions Code §§15610-15610.65 provide definitions for each element of this description of elder abuse. (See Appendix A(1), Elder Abuse and Dependent Adult Civil Protection Act, page 72, for a listing of these definitions).

ABUSIVE ACTIONS

- May involve acts of commission or acts of omission (failure by a caregiver to meet the elder's basic needs or to protect the elder from harm).
- May or may not constitute criminal conduct.
- May include physical, mental, emotional or sexual harm, financial exploitation, neglect, abandonment, or isolation. Often, more than one form of abuse is present.
- Usually involves psychological abuse in addition to other forms of abuse.
- May be used to achieve a desired outcome such as convincing the elder to give up assets (financial abuse).
- May be perpetrated by someone close to the elder or, particularly for financial exploitation, by a stranger.
- Occurs most often within private residences, with less than 5% occurring within facility settings.
- May include self-neglect.

In reports involving abuse or neglect by others (not self-neglect), the allegations were most likely to be related to financial abuse (33 percent), psychological abuse (25 percent), and neglect (23 percent). Victims of one form of elder abuse are at the highest risk for other types of abuse.

2) SELF-NEGLECT

Self-neglect is an elder's inability to provide for his or her basic needs for food, clothing, shelter, and medical care, or to manage his or her financial affairs.

Self-neglect often occurs as a result of:

- poor cognitive functioning (due to age, illness, or failure to take medication as prescribed)
- mental limitation
- substance abuse
- chronic poor health

Self-neglect may be an outcome of earlier victimization, and frequently co-occurs with elder abuse perpetrated by others.

Elders' self-neglect has been coming to the attention of law enforcement and code enforcement officials more frequently, and thus is increasingly likely to enter the justice system. Almost half of reports to Adult Protective Services (APS) concern self-neglect. These cases may involve hoarding or cluttering behavior, or animal collecting. Self-neglect cases often arise in the context of conservatorships, and involve complex legal determinations regarding capacity and competency. See section I-E(2), Capacity and Competency, page 19, and section III, Conservatorships, page 32.

3) FINANCIAL ABUSE

Elder financial abuse can take many forms and may be committed by family members, caregivers, or other people known to the elder, or may be perpetrated by strangers. The impact of financial exploitation can be as profound as physical abuse. Elders are rarely able to rebuild their financial assets or recoup their losses. The result can be reduced independence and security for the elder, increased dependence on family, and greater reliance on public assistance and social welfare programs.

There are some obvious reasons for financial abuse of elders:

- People over age 50 own 70% of the nation's private wealth, often in the form of savings or real estate.
- California elders over age 65 currently represent only 11.4% of the population, but hold 23% of the aggregate value of owner-occupied housing units.

TYPES OF ELDER FINANCIAL ABUSE

Financial Abuse by Family Members or Caregivers

- Taking the elder's money or personal property.
- Borrowing money repeatedly and not paying it back.
- Denying services or medical care to conserve funds.
- Persuading the elder to part with an asset when to do so is likely to harm the elder.
- Using abuse or neglect to convince the elder to give up assets.
- Giving away or selling the elder's possessions without permission.
- Signing or cashing pension or social security checks without permission.
- Forcing the elder to part with resources or sign over property.

Financial Abuse by Strangers

- **Prizes or sweepstakes:** Inducing an elder to send money to cover taxes, shipping, or processing fees. The prize may never arrive or if it does, it may be of little to no value.
- **Investments:** Convincing an elder to invest in nonexistent companies or worthless property, or inappropriate investment vehicles such as annuities that are not likely to pay out during the elder's lifetime.
- **Home and automobile repairs:** Requiring an elder to put down advance deposits for repairs. The work may never be completed or may be substandard. In many cases, the repairs aren't truly needed.
- **Loans and mortgages:** Convincing an elder to enter into a predatory lending scheme or a reverse mortgage that does not benefit him/her.
- **Lottery scams.**
- **Telemarketing and mail fraud** (often used as tools for identity theft).

The misuse of legal instruments such as powers of attorney is another form of financial elder abuse, and may include:

- falsification of records;
- using funds for the personal benefit of the person holding the power of attorney rather than for the benefit of the elder.

When the power of attorney is held by a responsible person, it can be a very effective tool for managing an elder's affairs. Given the potential value of this legal instrument to elders, its misuse is a particularly unfortunate form of financial abuse because it undermines public confidence in this tool and reduces the likelihood that elders will recognize the benefits a power of attorney can provide.

The Elder and Dependent Adult Civil Protection Act (EADACPA) specifically includes financial abuse in the definition of abuse (Welfare & Institutions Code §15610.30(a),(d)). Civil protective orders may be available under some circumstances for financial abuse (Welfare & Institutions Code §15657.03); (see section II, Protective Orders, page 25).

In addition to the EADACPA, there are numerous other legal protections potentially available for victims of financial abuse. The most significant is Penal Code §368 which provides for criminal sanctions against perpetrators of financial abuse crimes. Section 368 recognizes that crimes against elders deserve special consideration and applies additional sanctions for theft or embezzlement crimes committed against elderly victims, and for those who inflict unjustifiable mental suffering on an elder or dependent adult.

Other potential legal protections for financial abuse are noted in Appendix A(8), Financial Abuse of Elders, page 80.

C. Dynamics of Elder Abuse

Complex interpersonal elements are often associated with elder abuse. In cases involving abusers who are close to the elder, there can be long-standing dynamics that have existed throughout the relationship that may increase in severity as the elder becomes more vulnerable and dependent. Although there is no single profile for a victim of elder abuse, with elders of all racial, ethnic, socioeconomic and religious backgrounds potentially at risk, research has identified certain factors as being predictors of an increased likelihood of elder abuse occurring.

RISK FACTORS FOR ABUSE

Victim

- Dependent on the abuser;
- Physical or mental frailty;
 - Nearly two-thirds of elders whose abuse was reported to Adult Protective Services were affected by major medical issues.
 - More than half of abused elders had some degree of cognitive impairment, most commonly dementia.
- Socially isolated;
- Verbally or physically aggressive;
- History of substance abuse or mental health issues;
- Hesitant to use the social services system.

Abuser

- Relationship with the victim (42% of alleged abusers were intimate partners, adult children or other family members; 16% were caregivers);
- Dependent on the victim;
- Younger (approximately two-thirds of abusers were under age 60);
- Suffering from a disturbed psychological state;
- Resentful of providing care;
- History of substance abuse or mental health issues;
- History of generational abuse (domestic violence, child abuse);
- Previous history of elder abuse in a caregiving context.

SOURCE: National Center on Elder Abuse (2006), *Abuse of Adults Aged 60+: 2004 Survey of Adult Protective Services*.

One theory of elder abuse has identified “caregiver stress” as the basis for abuse. While it is true that the responsibilities of being a caretaker can be overwhelming, especially for families with few resources, more recent research does not support “caregiver stress” as the *primary* cause of abuse in most cases. Even in those cases

where stress may be a contributing factor, it is not a legal justification for abuse. In these cases, it is important to ensure that the elder receives protection, and that both the elder and caregiver receive support to alleviate the stress.

Elders who are abused are similar to victims of domestic violence or child abuse in that they are often reluctant to tell anyone about the abuse because they:

- do not want to see themselves as victims and are in denial;
- are ashamed;
- believe the abuse is their fault;
- do not want to get the abuser in trouble.

The reluctance of a victim to report abuse may be an outcome of abuser manipulation and other tactics. Abusers may portray the elder victims as unreliable, forgetful, or “poor witnesses” to minimize or justify their conduct.

FACTORS THAT MAY AFFECT AN ELDER’S WILLINGNESS OR ABILITY TO REPORT ABUSE

The victim’s:

- dependence on the abuser for care and companionship;
- dementia or other mental health issues;
- frailty or lack of mobility;
- fear of reprisal, abandonment, or loss of independence (placement in a nursing home);
- fear of involvement with the legal system;
- not knowing where to turn for help;
- having responsibilities as the caregiver for the abuser.

If the abuser is the elder’s own child there may be particularly complicated dynamics which lead the elder to minimize the abuse.

These include:

- parents’ inclination to protect their child rather than consider their own personal safety;
- feelings of guilt, shame or embarrassment because the elder attributes the abuse to poor child raising;
- desire to maintain contact with children and grandchildren;
- fear that the child will become homeless if the elder reports the abuse;
- the abuser’s manipulation of the elder’s emotions, including parental love.

All of these issues may be exacerbated by limited community resources to assist elders and their caregivers.

Non-English speaking elders face additional challenges such as lack of access to linguistically and culturally familiar assistance, and the fact that an act that constitutes elder abuse in American culture may not be viewed as elder abuse by someone from another culture. As California's elderly population grows in number, it will also grow in racial and ethnic diversity. Courts and agencies serving elders may need to make modifications to increase the effectiveness of their interventions in abuse cases involving elders from all of California's diverse communities.

D. California's Approach to Addressing Elder Abuse

California has developed a sophisticated approach to addressing elder abuse with three related prongs: the Elder Abuse and Dependent Adult Civil Protection Act, the Adult Protective Services program, and the Long-Term Care Ombudsman program.

1) ELDER ABUSE AND DEPENDENT ADULT CIVIL PROTECTION ACT

California's Elder Abuse and Dependent Adult Civil Protection Act (EADACPA), Welfare & Institutions Code §§15600-15675, enacted in 1992, recognizes that the state has a responsibility to protect elders and dependent adults from abuse. The EADACPA is vital in providing protections for dependent adults; this Pocket Reference, however, focuses specifically on the EADACPA protections provided in response to allegations of elder abuse.

Legislative Intent:

“to provide that adult protective services agencies, local long-term care ombudsman programs, and local law enforcement agencies shall receive referrals or complaints from...source(s) having reasonable cause to know that the welfare of an elder or dependent adult is endangered, and shall take any actions considered necessary to protect the elder or dependent adult and correct the situation and ensure the individual's safety.”

The Elder Abuse and Dependent Adult Civil Protection Act

- requires every member of an elderly or dependent adult's care team to report all suspected physical, mental, emotional or financial abuse of dependent or elderly adults;

- provides specific information about how these abuse reports should be handled and investigated by local agencies carefully sharing their information with one another;
- provides protection to those who report alleged abuse for positive (nonmalicious) reasons;
- provides for the criminal prosecution of individuals suspected of abusing, neglecting or abandoning a dependent or elderly person in their care;
- provides protection for elder or dependent adults with or without a criminal prosecution;
- provides that elder or dependent adults (or their conservators) can sue for attorney fees and other damages once an abuser has been criminally convicted.

Note: In California, in addition to the EADACPA, a wide range of laws directly address various forms of elder abuse; other laws can be relevant in cases in which actual or suspected elder abuse is an issue. Appendix A, page 71, contains a list of many of these laws.

2) ADULT PROTECTIVE SERVICES (APS)

The Adult Protective Services program (Welfare & Institutions Code §§15750-15766) requires each county welfare department to establish and support a system of protective services to elderly and dependent adults who may be subjected to neglect, abuse, or exploitation, or who are unable to protect their own interests. Each county is also required to maintain a specialized entity with lead responsibility for the operation of the adult protective services program (Welfare & Institutions Code §§15751, 15752).

Counties are charged with providing case management services to elders and dependent adults who are determined to be in need of Adult Protective Services for the purpose of “bringing about changes in the lives of victims and to provide a safety net to enable victims to protect themselves in the future” (Welfare & Institutions Code 15763(d)).

Adult Protective Services Agencies:

- Are located in every California county;
- Help elder and dependent adults when they are unable to meet their own needs, or are victims of abuse, neglect or exploitation;
- Investigate reports of abuse of elders and dependent adults who live in private homes and hotels, or who are in hospitals and health clinics (when the abuser is not a staff member).

Note: The Long-Term Care Ombudsman’s office, administered by the California Department of Aging, is the agency that investigates reports of abuse that occur in nursing homes, board and care homes, residential facilities for the elderly or long term care facilities. A more complete description of the Long Term Care Ombudsman’s office is provided in section I-D(3), page 17.

SERVICES PROVIDED BY ADULT PROTECTIVE SERVICES AGENCIES

- In-person responses to reports of abuse, and immediate intake or intervention for reports involving life-threatening situations and crises.
- Crisis intervention and, to the extent resources are available, shelter and appropriate care for frail and disabled victims who are in need of assistance with activities of daily living.
- Investigations, needs assessments, remedial and preventive social work activities, tangible resources such as food, transportation, household goods, emergency shelter, and in-home protective care.
- Case management; money management; referrals to geriatric mental health, domestic violence, sexual assault, victim assistance and other services, counseling, monitoring, follow-up and reassessment.
- Assistance with obtaining advocacy services, out-of-home placements, or conservatorships.
- Development of interagency treatment strategies to ensure maximum coordination with existing community resources, and to avoid duplication of efforts.

Receipt of APS services is voluntary; adults who are offered APS services must consent to receive them. Mandated reporters of elder abuse, however, are authorized to provide information to APS or other agencies investigating elder abuse, and may cooperate in the investigation without prior consent of the victim (Welfare & Institutions Code §15630).

See:

- Report of Suspected Dependent Adult/Elder Abuse, California Department of Social Services Form SOC341: www.dss.cahwnet.gov/cdssweb/entres/forms/English/SOC341.pdf.
- Report of Suspected Dependent Adult/Elder Financial Abuse, California Department of Social Services Form SOC342: www.dss.cahwnet.gov/cdssweb/entres/forms/English/soc342.pdf.

3) LONG-TERM CARE OMBUDSMAN PROGRAM

A significant percentage of elders reside in various types of care facilities. Although the majority of reported abuse cases occur in elders' own residences, those who reside in facilities are also at risk. Elders have a legal right to be free from verbal, mental, physical and sexual abuse and corporal punishment in nursing homes and other institutional settings.

The primary responsibility of the California State Long-Term Care Ombudsman Program, (Welfare & Institutions Code §§9700-9741) is to investigate and endeavor to resolve complaints made by, or on behalf of, individual residents in facilities.

Facilities covered by the Ombudsman program include:

- nursing homes
- residential care facilities for the elderly
- board and care homes
- long-term care
- assisted living facilities

Institutional neglect or substandard care includes failure to:

- provide medical care for physical and mental health needs;
- attend to hygiene;
- provide adequate staffing;
- prevent malnutrition and dehydration.

This neglect or substandard care may be exacerbated or hidden through falsification of patient charts.

The Ombudsman must have the elder's permission to report the abuse unless the Ombudsman personally witnessed abuse of the elder or unless there is a violation of the Penal Code (Welfare & Institutions Code §15636). Mandated reporters, however, are authorized to provide information to the Ombudsman, Adult Protective Services or other agencies investigating elder abuse, and may cooperate in the investigation without prior consent of the victim (Welfare & Institutions Code §15630).

Detailed information regarding elder abuse in facilities and institutions is beyond the scope of this Pocket Reference; however, the Health & Safety Code addresses the following categories:

- Residential Care Facilities For Persons with Chronic Life-Threatening Illness, §§1568.01-1568.094
- Alzheimer’s Day Care Resource Centers Act, §§1568.15-1568.17
- Residential Care Facilities For the Elderly §§1569-1569.889
- California Adult Day Care Health Act §§1570-1596.5
- Skilled Nursing and Intermediate Care Facility Patient’s Bill Of Rights §§1599-1599.4

E. Elder Abuse Issues in the Courts

Judicial officers and staff throughout the court system may encounter elderly victims of abuse whether at the hands of a family member, a friend or neighbor, a caregiver in a home or institutional setting, or a stranger who takes advantage of the elder’s trust. Elder victims of abuse may appear before the court as defendants, plaintiffs, witnesses, jurors, petitioners, respondents, conservatees and/or victims.

1) CASE TYPES

Elder abuse cases can enter the court in the form of:

- criminal cases;
- family law cases;
- cases regarding health care decisions for incapacitated persons;
- civil harassment;
- domestic violence;
- lawsuits against facilities;
- proceedings following a report to Adult Protective Services;
- probate & Lanterman-Petris-Short (LPS) conservatorships (many conservatorships are established in response to abuse);
- mental health commitment;
- civil fraud and conversion;
- personal injury;
- traffic;
- unlawful detainer (for example, an elder trying to evict an adult child who is not paying rent, is stealing from the elder, or has a drug problem);

- adult adoptions (for example, someone convincing an elder to adopt him or her in order to get access to the elder’s estate);
- juvenile (abuse of elder family member or unrelated elder);
- other areas of law.

While some types of cases are initiated to address elder abuse directly, many cases are not, and these cases require judicial officers and court staff to recognize different forms of abuse or symptoms of abuse, and to be sensitive to elders’ needs in navigating court processes. See section V-A, Assessing for Abuse, page 41.

2) CAPACITY AND COMPETENCY

A complex issue that may come into play in a variety of cases involving elder abuse is the “capacity” of the elder. Judicial officers often face a challenging task in addressing capacity issues that may be raised directly or indirectly.

WHAT IS CAPACITY

- the cluster of mental skills, such as memory and logic, as well as behavioral and physical functioning that people use in everyday life;
- a continuum of decision-making abilities;
- rarely lost completely or globally, except in very severe cases (in the early phases of dementia/Alzheimer’s, the elder can often recall, state their desires, and testify appropriately);
- contextual, and varies by the complexity of the task or the decision;
- an element that should always be evaluated in relation to the particular act that is at issue (e.g., signing over a home, creating a will, marrying, testifying about abuse). The more significant the decision and the consequences of the decision, the higher the level of capacity required.

An individual’s “capacity” is evaluated in the context of tasks and abilities. These may include an elder’s capacity to manage his/her own financial affairs, capacity to make medical decisions, and capacity to provide appropriate food, clothing and shelter for himself/herself.

Elder litigants can have dementia or other capacity issues that require the court to ascertain whether they are competent to:

- care for themselves;
- take various types of actions that have legal ramifications;
- participate in litigation.

A civil case may focus on whether an elder had the capacity to understand a contract before entering into it. In a criminal case or an application for a protective order, questions about the elder's capacity may be raised by the abuser as a defense or by the prosecutor as an indicator of the elder's vulnerability to abuse. Since many abused elders have cognitive impairments, understanding the elder's capacity will be critical to understanding the context in which the alleged abuse took place. See section V-B, Assessing Cognition, page 50.

Capacity can fluctuate over time, situations and tasks:

- Capacity assessments may be misleading if conducted at a time that is not representative of the elder's true level of functioning, and may be affected by the time of day ("sundowning").
- Capacity issues are not necessarily permanent – they may wane or completely subside as injuries heal, as illnesses or medications that cause delirium are changed, as dehydration and malnutrition are addressed, and as depression is treated.
- Courts may monitor improvements to capacity or may need to impose only a short term intervention. The court may need to modify orders to address increased and then decreased capacity and abilities as the disease progresses. See definitions in section IX, Common Medical Conditions and Geriatric Syndromes, for delirium (page 57), dementia (page 58) and depression (page 59).

Note: Judicial officers should inquire into all medications the elder or dependent adult may be taking, including prescription, over-the-counter, and the medications of others (usually done to save money), all physical conditions and any recent surgeries under general anesthesia as any or all of these may temporarily affect capacity by causing "faux" dementia.

The court may also be required to decide whether there is a need for a conservatorship. Capacity is obviously a central issue in probate conservatorships. Probate Code §810 includes a rebuttable presumption that all persons have capacity to make decisions. Section 811 requires each judicial determination that a person lacks legal capacity to perform a specific act to be *based on evidence of a deficit that significantly impairs the person's ability to understand and appreciate the consequences of his or her actions with regard to the type of act or decision in question.*

The legal term “competency” is closely related to the concept of “capacity”; laypeople often use these terms interchangeably. However, a person’s competency is a legal determination based on many factors, including whether a person had the capacity to understand or take an action. Being competent or having adequate capacity is a judgment of an elder’s decision-making abilities; elements include choice, reasoning, understanding, and appreciation of consequences. Judicial officers face many complexities in determining competency of an elder. These include lack of consistent legal standards and difficulty in obtaining mental health assessments of elders, though such assessments are often critical for determining competency or adjudicating a case. See section V-B, Assessing Cognition, page 50.

3) UNDUE INFLUENCE

“Undue influence” is the misuse of one’s role and power to exploit the trust, dependency, or fear of another to deceptively gain control over that person’s decision-making. California defines undue influence by statute in Civil Code §1575:

- In the use, by one in whom a confidence is reposed by another, or who holds a real or apparent authority over him/her, of such confidence or authority for the purpose of obtaining an unfair advantage over him/her;
- In taking an unfair advantage of another’s weakness of mind; or
- In taking a grossly oppressive and unfair advantage of another’s necessities or distress.

Undue influence is not in and of itself a form of abuse, but it is a pattern of manipulative behaviors that can be used as a means to abuse an elderly person, especially through financial exploitation or sexual abuse. Although a lack of capacity is not required for undue influence to occur, capacity issues may make it easier for an abuser to exert undue influence and assert his or her will over an elder.

When undue influence is present, the victim appears to agree or acquiesce to something that eventually leads to the victim’s loss of property, assets, or independence. Warning signs that undue influence is at play include:

- isolation of the elder by the abuser;
- the fostering of the elder’s dependency on the abuser;
- emotional manipulation or exploitation of the elder’s vulnerability by the abuser.

People of any age and any cognitive status can be vulnerable to undue influence, but individuals with diminished cognitive abilities are at greater risk of succumbing to undue influence. Cognitive assessments such as those described in section V-B, Assessing Cognition, page 50, may indicate an elder's susceptibility to undue influence.

Note: In California, a wide range of laws directly address various forms of elder abuse; other laws can be relevant in cases in which actual or suspected elder abuse is an issue. Appendix A, page 71, contains a list of many of these laws.

F. Judicial System Responses to Elder Abuse Cases

Judicial officers have a range of options for responding to elder abuse cases, including several designed to make court processes more accessible for elders.

Courts may:

- Offer direct calendaring of elder abuse matters;
- Limit unnecessary continuances;
- Use flexibility in scheduling to address the elder's need for rest, medication and meals;
- Take more frequent breaks;
- Provide case setting priority for elder abuse cases; (A party over age 70 has the right to petition for case setting priority which the court must grant if the party has a substantial interest in the action and the health of the party necessitates a preference to prevent prejudicing the elder's interest in the litigation. Code of Civil Procedure §36(a).)
- Improve physical accessibility to the courtroom;
- Permit/provide support persons (see next page).

Courts also have alternative methods for obtaining and preserving testimony of an elder victim or witness. These include:

- depositions;
- telephonic hearings;
- substituting an elder's court appearance with a conditional examination using a magistrate or court reporter;
- videoconferencing;
- using videotaped testimony.
(Penal Code §§1335-1345)

The court may also provide protection for the abused party by:

- encouraging the preparation of a safety plan;
- determining whether a restraining or protective order should be issued (See section II, Protective Orders, page 25);
- ordering counseling or treatment (pursuant to a Domestic Violence Restraining Order, or as a term of probation in a criminal case);
- requiring the surrender of firearms, when appropriate.

Support Person for Elder in a Criminal Proceeding

An elder has the right to have a support person present during important points in the criminal process. These include:

- during any formal interview by law enforcement, prosecutors or defense attorneys, when the elder is the victim of a sexual assault (Penal Code §679.04);
- at a forensic examination (Penal Code §264.02);
- when an elder who is a prosecution witness and a “dependent person” is providing grand jury testimony (Penal Code §939.21);
- when testifying as a prosecution witness at a preliminary hearing, trial or juvenile court hearing in specified violence, sexual assault and child abduction cases (Penal Code §868.5).

Judicial officers hearing criminal matters are required to provide, upon request of a party, an instruction informing the jury that although an elder with a cognitive, mental, or communication impairment may perform differently as a witness, that does not mean the elder is any more or less credible a witness, and the jury should not discount the testimony solely on that basis. Penal Code §1127g. Courts can also encourage elder abuse victims to provide impact statements at sentencing.

Courts can impose requirements designed to make the victim of elder abuse whole by ordering:

- restitution;
- return of property.

Judicial officers may use principles from domestic violence and drug court models to protect the elder and assure abuser accountability by ordering:

- escalating sanctions against the abuser;
- frequent monitoring and reviews for confirmation of compliance with restraining orders;
- counseling and treatment;
- specific payment schedules.

Judicial officers may also develop innovative practices to address elders' needs such as:

- arranging courtrooms to improve accessibility;
- recruiting volunteers to assist elderly litigants with locating courtrooms and offices, completing court forms and applications, and reading court materials;
- providing court accompaniment and support;
- providing referrals to other types of assistance programs.

Communicating with Elderly Litigants

Judicial officers are aware of the need for clear and comprehensible communication within their courtrooms. However, when a case involves an elder with one or more disabilities, additional steps may be needed to enhance the likelihood of successful communication.

COURTROOM COMMUNICATION TIPS

- Reduce distracting lighting and background noise.
- Ensure that the elder is physically and emotionally comfortable.
- Schedule matters involving elders neither early nor late in the day, as many elders' energy level is low at those times. Some elders, especially those with dementia, become more confused in the latter part of the day ("sundowning").
- Recognize that medications may cause confusion, sedation, fatigue, or have other effects that can impact the elder's level of awareness and ability to communicate.
- Assist elders with disabilities to communicate by ensuring use of assistive devices such as hearing aids and glasses, and employing techniques such as addressing the elder's "better" ear, having a document read aloud, or using writing as an alternative means of communicating.

II. PROTECTIVE ORDERS

Protective orders are often an effective tool that can be used to restrain the conduct of a person who is abusing an elder (65 years old or older) or a dependent adult (between the ages of 18 and 64 and with certain disabilities).

California's Elder Abuse and Dependent Adult Civil Protection Act (EADACP) (Welfare & Institutions Code §§15600-15675), the statutory scheme protecting elders and dependent adults from abuse by caretakers and others, defines abuse of an elder or dependent adult to mean the following (Welf & I C §15610.07):

(a)		(b)
<ul style="list-style-type: none">• Physical abuse• Neglect• Financial abuse• Abandonment• Isolation• Abduction, or• Other treatment with resulting physical harm or pain or mental suffering.	<i>and/or</i>	The deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.

Welf & I C §§15610-15610.65 provide definitions for each element of this description of elder abuse. (See Appendix A(1), EADACP, page 72, for definitions.)

A. Emergency Protective Order

Family Code §§6240-6274

A judicial officer may issue an ex parte emergency protective order (EPO) where:

- a law enforcement officer asserts reasonable grounds to believe
- an elder or dependent adult is in immediate and present danger of abuse (as defined in Welfare & Institutions Code §15610.07)
- based on an allegation of a recent incident of abuse or threat of abuse by the person against whom the order is sought.

No emergency protective order can be issued based solely on an allegation of financial abuse (Family Code §6250(d)).

An EPO for an elder may include all of the restraining and other orders authorized under an Elder or Dependent Adult Protective Order (Welf & I

C §15657.03; Fam C §6252(e), as described below). An EPO remains in effect for up to five court days after the day of issuance or the seventh calendar day following issuance, whichever is earlier (Fam C §6256). Prior to the expiration of an EPO, the elder may apply for a longer-term protective order.

There are three different types of long-term civil protective orders that may be appropriate in elder abuse cases, depending on the facts of the situation:

- **Elder or Dependent Adult Protective Order** (Welf & I C §15657.03)
- **Domestic Violence Restraining Order** (Family Code §§6200 et seq.)
- **Civil Harassment Restraining Order** (Code of Civil Procedure §527.6)

B. Criminal Protective Order

A court *with jurisdiction over a criminal matter* may issue a protective order for a victim or witness upon a good cause belief that harm to, or intimidation of, or dissuasion of, a victim or witness has occurred or is reasonably likely to occur (Penal Code §136.2). However, in cases not involving a crime of domestic violence, there are limitations on the court's ability to use the underlying conduct of the charged offense as a basis for determining whether good cause exists.

In appropriate cases, a Criminal Protective Order may include orders to:

- prohibit the defendant or other persons from attempting to prevent or dissuade a victim or witness from attending or giving testimony at a trial or other proceeding;
- prohibit the defendant from having any communication with the victim or witness except through an attorney;
- require a law enforcement agency to provide protection for the victim or witness and his or her immediate family members;
- protect victims of violent crime from all contact by the defendant;
- restrain personal conduct pursuant to Family Code §6320, including prohibiting the defendant from coming within a specified distance of the victim or witness;
- require the defendant to relinquish firearms, and prohibit the defendant from possessing or purchasing a firearm while the protective order is in effect.

Criminal protective orders take precedence in enforcement over any civil protective order unless there is an EPO issued to protect the same person, restraining the same person, and the provisions of the EPO are more restrictive. Penal Code §136.2(e)(2)(A)-(C); Family Code §6383(h).

C. Elder or Dependent Adult Protective Order

Welfare & Institutions Code §15657.03

An elder or dependent adult who has suffered abuse as defined in Welfare & Institutions Code §15610.07 may seek a protective order for himself/herself.

Note: the Elder Abuse and Dependent Adult Civil Protection Act is vital in providing protections for dependent adults; this Pocket Reference, however, focuses specifically on the EADACPA protections provided in response to allegations of elder abuse.

A protective order petition may also be brought against “any person” on behalf of an abused elder by:

- a conservator;
- a trustee;
- an attorney-in-fact who acts within the authority of the power of attorney;
- a guardian ad litem for the elder; or
- any other authorized person.

A support person may accompany the elder in court and may sit at counsel table if the elder is not represented by an attorney, though the support person is prohibited from providing legal advice.

An order may be issued under this section, with or without notice, to restrain **any person** for the purpose of preventing a recurrence of abuse. The supporting affidavit must show, to the satisfaction of the court, reasonable proof of a past act or acts of abuse perpetrated against the petitioning elder or dependent adult (Welfare & Institutions Code §15657.03(c)).

An Elder or Dependant Adult Protective Order differs from a Domestic Violence Protective Order in two important respects: (1) it does not require a family or household member relationship between the parties; (2) it is available even if the elder petitioner lacks capacity.

The Elder or Dependant Adult Protective Order may enjoin a respondent from:

- abusing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, destroying personal property, or contacting the petitioner, either directly or indirectly, by mail or otherwise;

- coming within a specified distance of, or disturbing the peace of the petitioner or, in the discretion of the court, on a showing of good cause, of other named family or household members, *or the petitioner's conservator*;
- entering the petitioner's residence or dwelling unless title to or lease of the residence or dwelling is in the sole name of the party to be excluded, or is in the name of the party to be excluded and any other party besides the petitioner;
- specified behavior that the court determines is necessary to effectuate these orders (Welfare & Institutions Code §15657.03).

A temporary restraining order may include any of the protective orders described above. However, the court may issue an ex parte order excluding a party from the petitioner's residence or dwelling only on a showing of all of the following:

- Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.
- The party to be excluded has assaulted or threatens to assault the petitioner, other named family or household member of the petitioner, or conservator of the petitioner.
- Physical or emotional harm would otherwise result to the petitioner, other named family or household member of the petitioner, or conservator of the petitioner (Welfare & Institutions Code §15657.03(d)).

An Elder or Dependent Adult Protective Order prohibits the person subject to it from owning, possessing, purchasing, receiving, or attempting to purchase or receive, a firearm *except in a case consisting solely of financial abuse unaccompanied by force, threat, harassment, intimidation, or any other form of abuse* (Welfare & Institutions Code §15657.03(t)(4)). The respondent must relinquish any firearms he or she owns or possesses (Code of Civil Procedure §527.9; Welfare & Institutions Code §15657.03(t)(2)); failure to do so is punishable as a misdemeanor (Penal Code § 12021(g)).

There is no filing fee required for a protective order, nor can the petitioner be required to pay a fee for law enforcement to serve an order (Welfare & Institutions Code §15657.03(l,m)). The prevailing party may be awarded court costs and attorney's fees.

Violation of a protective order is punishable as a misdemeanor (Penal Code 273.6).

The maximum duration of a protective order is five years, and the renewal period may be either five years or permanently (Welfare & Institutions Code §15657.03(f)).

The forms to be used in Elder or Dependent Adult Protective Order actions are:

- **CLETS-001** – Confidential CLETS Information (Domestic Violence, Civil Harassment, Elder Abuse, Juvenile Law)
- **EA-100** – Request for Elder or Dependent Adult Abuse Restraining Orders (Elder or Dependent Adult Abuse Prevention)
- **EA-100-INFO** – Can a Restraining Order To Prevent Elder or Dependent Adult Abuse Help Me?
- **EA-110** – Temporary Restraining Order (CLETS-TEA or TEF) (Elder or Dependent Adult Abuse Protection)
- **EA-115** – Request Temporary Restraining Order (CLETS-TEA or TEF)
- **EA-120** – Response to Request for Elder or Dependent Adult Abuse Restraining Order
- **EA-120-INFO** – How Can I Respond to a Request for Elder or Dependent Adult Abuse Restraining Orders?
- **EA-130** – Elder or Dependent Adult Abuse Restraining Order After Hearing (CLETS-EAR or EAF) (Elder or Dependent Adult Abuse Protection)
- **EA-200** – Proof of Personal Service
- **EA-200-INFO** – What Is “Proof of Personal Service”?
- **EA-260** – Proof of Service of Order After Hearing by Mail
- **EA-800** – Proof of Firearms Turned In or Sold

The forms for an Elder and Dependent Adult Protective Order are available at: <http://courts.ca.gov/forms.htm>.

D. Domestic Violence Restraining Order

Family Code §§6200 et seq.

An elder may seek a Domestic Violence Restraining Order (DVRO) when:

- the elder has been abused;
- the abuse has been perpetrated by a current or former spouse; current or former domestic partner; current or former cohabitant (defined as a person who regularly resides or resided in a household), a current or former dating or engagement relationship; someone with whom the petitioner has a child; or *by a child of the petitioner*; or by any other person related by blood or marriage in the second degree (Family Code §6211).

One significant difference between a Domestic Violence Restraining Order (DVRO) and an Elder or Dependent Adult Protective Order is that a specified familial/household relationship between the restrained party and the protected party is required for a DVRO, but not for an Elder or Dependent Adult Protective Order.

When a DVRO is available, there are factors that may make obtaining this type of protective order preferable to an Elder or Dependent Adult Protective Order in some cases, including increased supports and services for DVRO applicants, and the availability of broader relief. In addition to the restraining and other orders available in an Elder or Dependent Adult Protective Order, a DVRO may mandate:

- spousal support (Family Code §6341);
- batterer's program (Family Code §6343);
- temporary use of property (Family Code §6324);
- temporary debt payment (Family Code §6324);
- restitution, and other orders.

The forms for a Domestic Violence Restraining Order (forms DV-100 – DV-810) are available at: <http://courts.ca.gov/forms.htm>.

E. Civil Harassment Restraining Order

Code of Civil Procedure §527.6

An elder who has suffered harassment may seek a temporary restraining order and an injunction in the form of a Civil Harassment Restraining Order. Many of the provisions of the Elder or Dependent Adult Protective Order and the Domestic Violence Restraining Order are also available in a Civil Harassment Restraining Order. A Civil Harassment action can be used to protect elders from harassment by roommates, neighbors, employees, family members, and others.

- Harassment is defined as unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose (Code of Civil Procedure §527.6(b)(3)).
- The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the plaintiff (Code of Civil Procedure §527.6(b)(3)).
- The civil harassment restraining order may be issued to protect the elder and all other family and household members who reside with the elder (Code of Civil Procedure §527.6(c)).

III. CONSERVATORSHIPS

There are two common types of conservatorships in California: probate conservatorships and Lanterman-Petris-Short Act (LPS) conservatorships. Pursuant to the Probate Code, a limited conservatorship may be established for the developmentally disabled subject to several restrictions. Discussion of limited conservatorships is beyond the scope of this Pocket Reference.

A. Probate Conservatorship

Conservatorships of the person or the estate – or both – are often sought in Probate Court in response to actual or suspected elder abuse (Probate Code §§1800 et. seq.). A conservator of the person may be appointed for an adult who cannot properly care for his or her own daily personal needs (Probate Code §1801(a)). The establishment of a probate conservatorship restricts the conservatee’s power over his or her own personal care decisions and/or financial decisions. A conservatorship has the potential to result in a massive curtailment of the conservatee’s liberty by providing the conservator with the legal capacity to bind the conservatee’s estate, choose the conservatee’s residence, and consent to medical treatment for the conservatee. For this reason, strict compliance with the statutory procedures designed to protect the conservatee is required.

Conservatorships of the person are designed to:

- protect the rights of persons who are placed under conservatorship;
- ensure that the conservatee’s basic needs for food, clothing, shelter, psychosocial and physical health are met (Probate Code §1800(a),(c),(f)).

No conservatorship of the person or estate may be granted without an express finding that the conservatorship is the *least restrictive alternative* needed for the protection of the conservatee (Probate Code §1800.3(b)).

Conservators are required to make use of community-based services to the greatest extent possible in order to allow the conservatee to remain as independent as possible and in the least restrictive setting (Probate Code §1800(d)).

A probate conservator may be appointed for the estate of an adult who is substantially unable to manage his/her own financial resources. A conservator may also be appointed for the estate of an adult who may be prey to fraud and/or unable to resist undue influence (Probate Code §1801(b)).

Conservatorships of the estate are designed to provide for:

- the proper management and protection of the conservatee's real and personal property;
- periodic review of the conservatorship by the court investigator (Probate Code §1800(e),(g)).

Substantial inability of an elder to manage finances, which is the basis for subjecting an elder to a conservatorship, may not be proven by isolated incidents of negligence or poor judgment by the elder (Probate Code §1801(b)).

The court may appoint a conservator of both the person and the estate for elders who have significant difficulties with the activities of daily living *and* with handling finances (Probate Code §1801(c)).

Probate courts have a unique role in supervising conservators. If a conservator is appointed for a plaintiff prior to the initiation of a civil action, the department of the superior court that has jurisdiction over probate conservatorships will have concurrent jurisdiction over any civil proceedings arising out of the abuse of the elderly or dependent adult conservatee (Welfare & Institutions Code §15657.3(a)).

For more detailed information on Probate Conservatorships, see the Administrative Office of the Courts, Center for Judicial Education and Research Benchguides: *Conservatorship: Appointment and Powers of Conservator* (Benchguide 300, www2.courtinfo.ca.gov/protem/pubs/bg300.pdf); and *Conservatorship Proceedings* (Benchguide 301, www2.courtinfo.ca.gov/protem/pubs/bg301.pdf).

B. Lanterman-Petris-Short Act Conservatorship

A Lanterman-Petris-Short Act (LPS) conservatorship (Welfare & Institutions Code §§5000-5550) is one in which:

- a conservator of the person, the estate, or both may be appointed;
- for someone who is gravely disabled (unable to provide for food, clothing and shelter) as a result of a mental disorder or impairment by chronic alcoholism;
- who is unwilling to accept or incapable of accepting voluntary treatment (Welfare & Institutions Code §5350).

Grave disability must be found beyond a reasonable doubt (see *Conservatorship of Roulet* (1979) 23 C3d 219, 235, 152 CR 424).

LPS conservatorships, whose purpose is to enable treatment of an elder's mental disorder or chronic alcoholism, result in involuntary commitment of the conservatee (Welfare & Institutions Code §5358). The conservatee's rights to vote, enter into contracts, to drive, and to own a firearm are limited.

An LPS conservator can make decisions regarding the conservatee's:

- psychiatric medications;
- medical treatment;
- money management.

The basis for an LPS conservatorship differs from a probate conservatorship. While the *procedure* for establishing, administering, and terminating an LPS conservatorship under Welfare & Institutions Code §5350 is similar to that for a probate conservatorship, [Probate Code §§1400–3925 (*In re Conservatorship of Martha P.* (2004) 117 CA4th 857, 867–868, 12 CR3d 142)], there are significant differences: (1) The proposed LPS conservatee can demand a court or jury trial on the issue of grave disability (Welfare & Institutions Code §5350(d)), and is entitled to counsel; (2) LPS conservatorship proceedings can be initiated only on recommendation of the professional person in charge of the treatment facility; (3) the officer providing conservatorship investigation is the only party who may petition to establish the LPS conservatorship (Welfare & Institutions Code §5352). An LPS conservatorship terminates automatically after one year unless re-establishment is sought (Welfare & Institutions Code §5361).

For more detailed information, see the Administrative Office of the Courts, Center for Judicial Education and Research Benchguide on LPS Conservatorship: *LPS Proceedings* (Benchguide 120, www2.courtinfo.ca.gov/protom/pubs/bg120.pdf).

The following chart outlines the most significant differences between the two types of conservatorships:

PROBATE CODE CONSERVATORSHIP	LPS CONSERVATORSHIP
No mental disorder required. Probate Code §1801(a): Conservatee must be unable to provide for personal needs or manage financial resources.	Mental disorder or impairment by chronic alcoholism required. Welfare & Institutions Code §5350.
Purposes are to protect conservatee's rights, provide for assessment, meet health and psychosocial needs, etc. Probate Code §1800.	Purpose is to treat disorder and protect the public. See generally Welfare & Institutions Code §5358.
No right to place conservatee in a locked mental health facility without conservatee's consent. Probate Code §2356. But see Probate Code §2356.5, permitting conservator to place a conservatee with dementia in a secured facility after obtaining a court order.	Conservator may place conservatee in locked mental health facility without the conservatee's consent. See Welfare & Institutions Code §5358(a),(c).
Indefinite duration. Probate Code §1860	One-year duration. Welfare & Institutions Code §5361.
Minors may not be conservatees. Probate Code §1800.3 (exception for married or formerly married minors).	Minors may be conservatees. Welfare & Institutions Code §5350(a)
Burden of proof: clear and convincing evidence. Probate Code §1801(e) .	Burden of proof of grave disability: beyond a reasonable doubt. <i>Conservatorship of Roulet</i> (1979) 23 C3d 219, 235, 152 CR 424.
Appointment of conservator is subject to the list of priorities in Probate Code §1812(b) (i.e., spouse/domestic partner, adult child, parent, brother/sister, etc.).	Appointment of conservator is subject to the list of priorities in Probate Code §1812 unless investigator recommends otherwise to the court. Welfare & Institutions Code §5350(b)(1). In appointing LPS conservator, court must consider protection of the public as well as treatment of the conservatee. Welfare & Institutions Code §5350(b)(2).
Probate conservatorship of estate is permitted even where there is LPS conservatorship of person. Welfare & Institutions Code §5350(c).	No LPS conservatorship of estate when there is Probate Code conservatorship of estate. Welfare & Institutions Code §5350(c). If Probate Code conservatorship of person already exists, LPS conservatorship runs concurrently and is superior to probate conservatorship. Welfare & Institutions Code §5350(c). Notice of LPS proceedings must be given to Probate Code guardian or conservator. Welfare & Institutions Code §5350(g).

IV. LEGAL RESOURCES RELATED to ELDER ABUSE

A. National Resources

1. **National Center for State Courts, Center for Elders and the Courts**
www.eldersandcourts.org

The National Center for Elders and the Courts serves as one of the primary resources for the judiciary and court management on issues related to aging. The Center's mission is to increase judicial awareness of issues related to aging, provide training tools and resources to improve court responses to elder abuse and adult guardianships, and develop a collaborative community of judges, court staff, and aging experts.

2. **The National Center on Elder Abuse**
www.ncea.aoa.gov

The National Center on Elder Abuse (NCEA) serves as a national resource center dedicated to the prevention of elder mistreatment. To carry out its mission, the NCEA disseminates elder abuse information to professionals and the public, and provides technical assistance and training to states and to community-based organizations. The NCEA makes resources available on-line and in easy-to-use formats; collaborates on research; provides training; identifies and provides information about promising practices and interventions; operates a listserv forum for professionals; and provides subject matter expertise on program and policy development.

3. **The ABA Commission on Law and Aging**
www.americanbar.org/groups/law_aging/resources/elder_abuse.html

The mission of the ABA Commission on Law and Aging is to strengthen and secure the legal rights, dignity, autonomy, quality of life, and quality of care of elders. It carries out this mission through research, policy development, technical assistance, advocacy, education, and training.

B. California Resources

1. California Department of Justice

Office of the Attorney General

Bureau of Medi-Cal Fraud and Elder Abuse

<http://ag.ca.gov/bmfea/index.php>

Relevant laws and regulations:

<http://ag.ca.gov/bmfea/laws.php>

2. California Department of Social Services

Adult Protective Services

www.cdss.ca.gov/agedblinddisabled/PG1298.htm

Report of Suspected Dependent Adult/Elder Abuse, SOC 341 (pdf)

www.dss.cahwnet.gov/cdssweb/entres/forms/English/SOC341.pdf

Translation: Spanish (pdf)

www.cdss.ca.gov/cdssweb/entres/forms/Spanish/SOC341SP.pdf

Report of Suspected Dependent Adult/Elder Financial Abuse, SOC 342 (pdf)

www.dss.cahwnet.gov/cdssweb/entres/forms/English/soc342.pdf

Listing of County Adult Protective Services (APS) Offices

www.cdss.ca.gov/agedblinddisabled/PG2300.htm

3. California Department of Aging

Long-Term Care Ombudsman Program – Elder Abuse

www.aging.ca.gov/programs/elder_abuse.asp

Elder Abuse reporting form:

www.dss.cahwnet.gov/cdssweb/entres/forms/English/SOC341.pdf

4. Administrative Office of the Courts, Center for Families, Children & the Courts

Judges Guide to Domestic Violence Cases

California Protective Orders

Elder and Dependent Adult Protective Order (pp. 102-110)

http://serranus.courtinfo.ca.gov/education/domestic_violence/

5. Administrative Office of the Courts

Center for Judicial Education and Research

Benchguides:

- *Conservatorship: Appointment and Powers of Conservator*
(Benchguide 300)

www2.courtinfo.ca.gov/protem/pubs/bg300.pdf

- *Conservatorship Proceedings* (Benchguide 301)

www2.courtinfo.ca.gov/protem/pubs/bg301.pdf

- *LPS Proceedings* (Benchguide 120)

www2.courtinfo.ca.gov/protem/pubs/bg120.pdf

<http://serranus.courtinfo.ca.gov/education/cjerpulist.htm#probate>

Center for Families, Children & the Courts

Effective Court Practice for Abused Elders: A Report to the Archstone Foundation

Judicial Council of California, Administrative Office of the Courts (2008)

<http://www.courts.ca.gov/documents/court abused-eldersreport.pdf>

6. Continuing Education of the Bar

California Elder Law Litigation: An Advocates Guide

Balisok, Russell, et. al.

<http://ceb.com/>

California Elder Law Resources, Benefits, and Planning: An Advocate's Guide

Camp, Priscilla, et. al.

<http://ceb.com/>

7. The Rutter Group

Elder Abuse Litigation

Balisok, Russell, et. al.

www.ruttergroup.com/ELDERABUSELITIGATION.htm

Medical Information



V. ELDER ABUSE *and* NEGLECT

A. Assessing for Abuse

Elder abuse issues arise in a wide variety of cases. Judicial officers may be presented with a range of medical evidence indicating that an elder has been or may have been abused. In a case involving an elder, there may be even greater complexity in the medical elements than in other types of abuse cases due to the complicated physical and mental health status of the victim. Understanding the ways medical and social service personnel assess for abuse and neglect can assist judicial officers in evaluating the test results, descriptions, and opinions these professionals provide to the courts.

1) ASSESSING BRUISES

A bruise or ecchymosis is formed when blood vessels rupture and leak blood into surrounding tissues. Bruising results from blunt forces: either a body part hits something harder than itself or a harder object hits a body.

- A bruise may take several days to appear if the cause of the bruise was a deep injury.
- Bruising that is present in a different location than the site of impact is called *ectopic bruising* and occurs when the tissue at the site of injury is loose, allowing blood to travel under the skin to another location due to gravity or other forces.
- Older adults bruise more easily than younger adults due to a variety of factors, including thinner, less elastic skin, fragile capillaries, and side effects of medicines.

While trained personnel may attempt to estimate the age of a bruise by its color, **this method is imprecise.**

Characteristics of suspicious bruises

(i.e., bruises more likely to be due to abuse):

- larger than typical;
- multiple;
- cause is known;
- unusual locations;
 - sexual abuse (genitals/groin, mouth/lips);
 - physical abuse (inner arm, bottom of feet, abdomen, neck);
 - multiple planes (bruises in multiple planes such as front and side of neck are unlikely to occur from a fall; bruises occurring on the inner and outer aspects of the upper arm are unlikely to be from bumping into an object);
 - skin folds, such as under breasts.

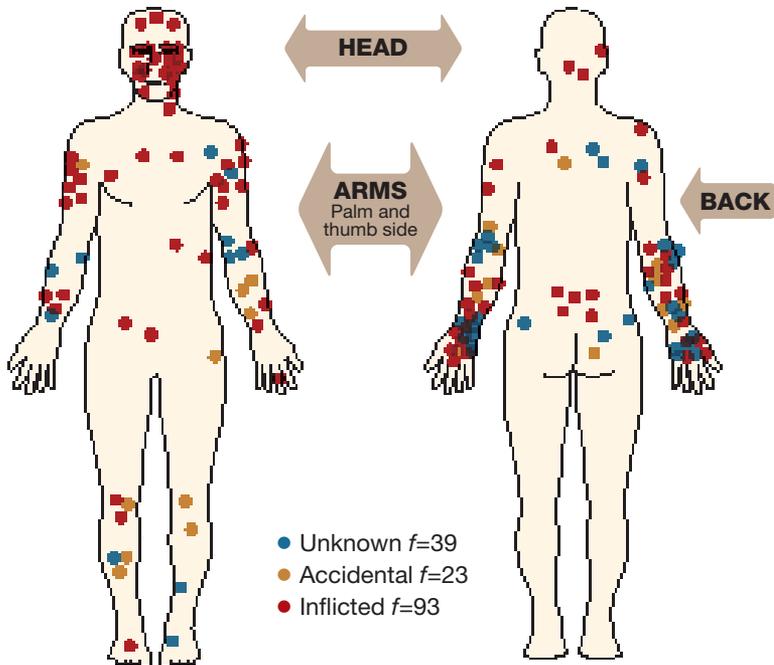
OTHER ELEMENTS OF BRUISING

- **Shape**
 - Pattern injuries; some bruises reflect the object that caused it. It may have an identifiable pattern such as a fingertip or belt buckle.
 - A circumferential (encircling a limb or thorax) bruise may be the result of restraint.
- **Size**
- **Location:** This may be misleading. A bruise that occurs in loose tissue, such as the area under the eye, may spread a great distance because the blood travels easily into the surrounding tissues.
- **Tenderness**
- **Swelling**
- **Broken skin**
- **Illnesses or medical problems:** Medical problems such as clotting disorders, leukemia or liver disease may cause a person to bruise easily.
- **Medications:** Medications do not in and of themselves cause bruising but may allow a person to bruise more easily. It is important to note both prescription and over-the-counter products taken by the elder, including herbs and supplements.
- **Senile purpura** (aka solar purpura) is a geriatric condition that mimics bruises. The purple/red bruises and brown skin discoloration result from increased vessel fragility due to connective tissue damage from chronic sun exposure.

BRUISING IN OLDER ADULTS AS REPORTED BY ABUSED ELDER

Key finding from this study

- **Bruises were large.** More than half of older adults with bruises who had been physically abused had at least one bruise **5 cm (about 2 inches) in diameter or larger.**
- Older adults with bruises who had been abused had **more bruises in areas indicated by brown arrows** than older adults whose bruises were accidental.
- **90%** of older adults with bruises who have been physically abused **can tell you how they got their bruises, and this includes many older adults with memory problems and dementia.**



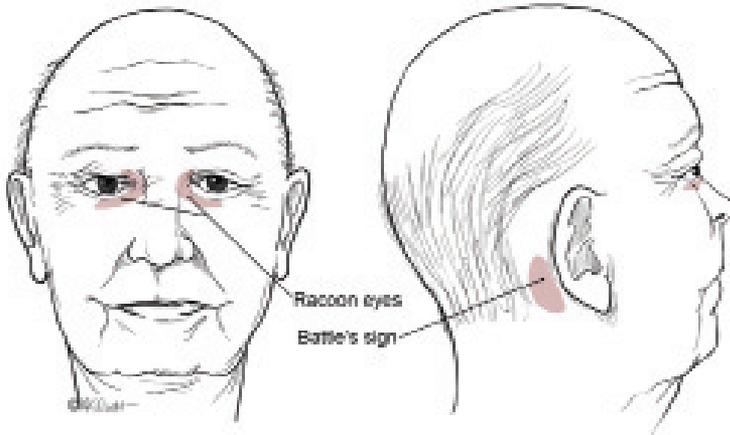
This project was funded by Grant 2005-IJ-CX-0048 from the Department of Justice (DOJ), Office of Justice Programs

Citation: Wiglesworth A, Austin R, Corona M, Schneider D, Liao S, Gibbs L, Mosqueda L. Bruising as a marker of physical elder abuse. J Am Geriatr Soc. 2009 Jul;57(7):1191-6.

Bruising Related to Skull Fractures

A basilar skull fracture (or basal skull fracture) is a fracture of the base of the skull. There are two different types that have distinctive bruising:

- Fractures of the petrous temporal bone result in leakage of spinal fluid through the ear. Bruising in this kind of skull fracture will occur behind the ear(s). This bruise is known as a **Battle's sign**.
- Fractures of the anterior cranial fossa result in leakage of spinal fluid through the nose and bruising around the eyes. This kind of bruising is known as "**raccoon eyes**."
- Signs occur 1-3 days after injury and are bilateral (occur on both sides).



2) ASSESSING STRANGULATION

Strangulation is often missed during investigations of alleged abuse.

Strangulation is a form of asphyxia characterized by closure of blood vessels and air passages of the neck by external pressure (i.e., hand, rope, belt).

Choking is a form of asphyxia characterized by internal blockage of the airway. Many people confuse these two terms and may indicate that they were "choked" when they actually mean that they were strangled. Strangulation occludes veins first and blood backs up into the head. With increased pressure, arteries will be obstructed, stopping blood flow and oxygen:

- At 10 seconds, the strangled person will experience loss of consciousness.
- At 1 to 4 minutes, there will be permanent brain damage.

Signs of strangulation include:

- **Neck:** Ligatures, hand prints, no marks (in many cases, bruising does NOT appear).
- **Face:** Petechiae (petechiae are caused by the breaking of small blood vessels as a result of external pressure.) Petechiae will change color as they heal, just like bruises. There may be other injuries on the face as well.
- **Head:** Bruises, swelling.
- **Voice:** Hoarse or raspy voice; frequent coughing.
- **Swallowing problems.**
- **Sniffing position:** In order to keep airway open, victim pushes head and neck forward as if “sniffing” the air.



3) ASSESSING PRESSURE SORES

(Pressure Ulcers or Bedsores or Decubitus Ulcers)

A pressure sore is an area of skin that breaks down due to unrelieved pressure.

PRESSURE SORE BASICS

May occur despite good care.

Typically occur over bony prominences.

Contributing factors include malnutrition and immobility.

Ulcers are categorized into 4 stages ranging from superficial to deep.

If a scab is present, a medical professional must remove the scab before the ulcer can be staged.

Treatment consists of relieving the pressure, cleaning the wounds and keeping the area clean and dry.

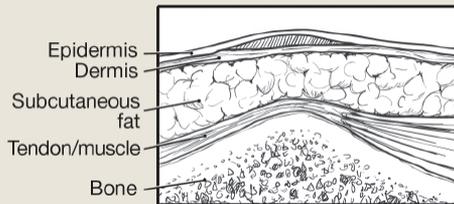
Although pressure sores may occur despite good care, **warning signs that may indicate abuse** include:

- Unusual location (e.g. head, inner part of leg, wrist);
- Malodorous wound;
- Multiple locations and on more than one plane of the body;
- No obvious attempt at care/treatment, especially for stage III or IV wounds (e.g., lots of dead tissue or debris).

PRESSURE SORE STAGES

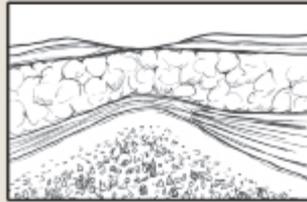
Stage I

Red area with intact skin. Redness persists even when pressure is relieved. May develop within minutes or hours.



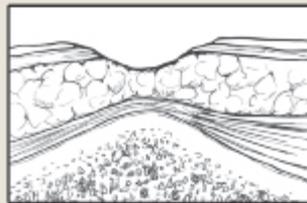
Stage II

Appears open like an abrasion or shallow crater, or there may be a blister. May develop within hours to days.



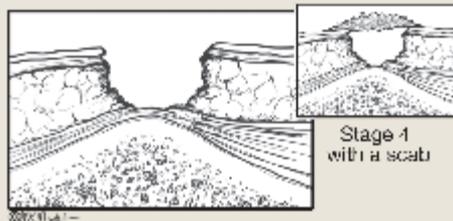
Stage III

Full thickness skin loss, deeper than a superficial wound, but not as deep as stage IV. May develop within hours to days to weeks.

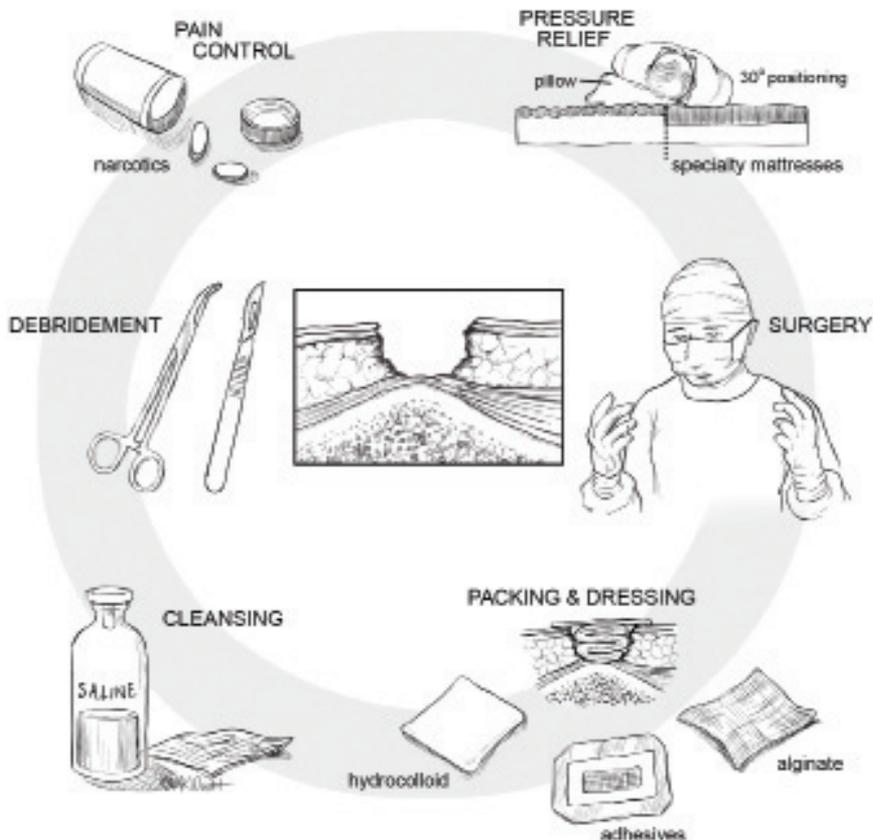


Stage IV

May see bones, muscles, or tendons. May develop within days to weeks.



Common Treatments for Pressure Sores



4) ASSESSING DEHYDRATION

Dehydration can be subtle in older adults, especially if dementia is present.

Risk factors for dehydration include:

- Decreased thirst response with advanced age
- Medications
- Chronic medical problems such as diabetes and alcoholism
- Fever
- Inaccessibility to liquids (e.g. elder can't get liquids due to mobility impairment, and no liquids are provided or made accessible by the care provider)
- Diarrhea
- Vomiting

One common technique used to assess for dehydration is “tenting of the skin” (by pinching the skin to evaluate retraction). This is not an accurate method in elders because of normal age-related changes such as thin skin, decreased elasticity and less subcutaneous fat.

Signs and symptoms of dehydration include:

- Decreased urination
- Decreased responsiveness
- Fatigue
- Weight loss
- Dizziness
- Thirst
- Dry mouth

Severe dehydration, a medical emergency, can cause:

- Extreme irritability and confusion in adults
- Extreme thirst
- Very dry mouth, skin and mucous membranes
- Lack of sweating
- Little or no urination (any urine that is produced will be dark yellow or amber)
- Sunken eyes
- Low blood pressure
- Rapid heart rate
- Unconsciousness, in the most serious cases

Laboratory tests are very helpful in determining the presence and severity of dehydration.

5) ASSESSING MALNUTRITION

Compared to younger adults, older persons have reduced muscle mass and reduced protein stores. These can be depleted in as little as three days, resulting in malnutrition.

General guidelines:

- Unintentional loss of 10 pounds or more in the previous 6 months; or
- Unintentional loss of 5% or more of usual body weight in the past month.

Risk factors for malnutrition:

- Cognitive problems
- Physical incapacity to obtain and/or prepare food
- Poor dental health
- Trouble chewing and/or swallowing
- High consumption of alcohol
- Social isolation
- Depression
- Advanced age (80+)

Common chronic diseases and conditions may cause fever, chronic infection, and disease-related changes in an elder's metabolism. Some common chronic diseases associated with malnutrition in older adults are:

- Alcoholism
- Cancer
- Chronic bronchitis and emphysema
- Dental and oral disease
- Depression
- Dementia (end stage)
- Thyroid disease

The effects of malnutrition in elderly people include:

- Loss of muscle mass
- Weakness and fatigue
- Impaired immune response
- Difficulty with wound healing
- Predisposition to pressure sores

Terminal wasting is a type of extreme weight loss. When the body gets to a more advanced stage of malnutrition, it starts to digest the muscles for energy. A malnourished person also loses the fat on his/her face and the skin becomes very taut, to the point where the face looks skeletal.

Laboratory tests are helpful in determining the presence and severity of malnutrition.

6) ASSESSING PAIN

While pain is fairly easy to assess in most people, for a person with delirium or dementia pain may be perceived differently and expressed differently.

Signs of pain include:

- Grimacing (facial contortions)
- Yelling (may need to ask witnesses about excited utterances)
- Agitation
- Squirming
- Shaking
- Decreased activity
- Holding an area of the body tightly

B. Assessing Cognition

Cognition is generally understood as the mental processes involved in judging, knowing, learning, perceiving, recognizing, remembering, thinking, and understanding.

TOOLS FOR SCREENING COGNITION

Mini Mental State Exam – MMSE: The MMSE is a general screening tool that targets some areas of cognition or thinking abilities.

*It **does** test: orientation, memory, language.*

*It **does not** test a person's capacity to make decisions, nor their judgment, reasoning, or executive skills (executive functioning).*

Mini-Cog Assessment: The Mini-Cog assessment instrument combines a 3-item recall test with the Clock Drawing Test. The Clock Drawing Test can provide insight into information processing and planning, differentiating cognitively normal adults from those with at least mild dementia.

MoCA: The Montreal Cognitive Assessment was designed as a rapid (10 minute) screening instrument for mild cognitive dysfunction. It assesses different cognitive domains: attention and concentration, executive functions, memory, language, visuoconstructional skills, conceptual thinking, calculations, and orientation.

VI. COMMON TERMS USED *in* ELDER HEALTH CARE *and* ELDER ABUSE

These terms are frequently used in discussions of aging and elder abuse:

AAA	Area Agency on Aging
ADHC	Adult Day Health Care
ADL	Activities of Daily Living
AMA	Against Medical Advice
AMS	Altered Mental Status
APS	Adult Protective Services
CCL	Community Care Licensing
CMS	Centers for Medicare and Medicaid Services
CNA	Certified Nursing Assistant
DD	Developmentally Delayed
DHS	Department of Health Services
DME	Durable Medical Equipment
DON	Director of Nursing
DPA	Durable Power of Attorney
DSD	Director of Staff Development
FAST	Financial Abuse Specialist Team
FC	Forensic Center
F/F	Face to Face
HDM	Home Delivered Meals
HHA	Home Health Aide
H/V	Home Visit
IHSS	In-Home Supportive Services
ILRC	Independent Living Resource Center
LCSW	Licensed Clinical Social Worker
LTC	Long-term Care

LTCO	Long-term Care Ombudsman
LVN	Licensed Vocational Nurse
MDT	Multi-disciplinary Team
MFT	Marriage and Family Therapist
MHA	Mental Health Association
MMSE	Mini Mental Status Exam
MR	Mental Retardation
MSE	Mental Status Exam
MSSP	Multipurpose Senior Services Program
OC	On-call
OD	Officer of the Day
PA/PG	Public Administrator /Public Guardian
PCP	Primary Care Physician
PD	Police Department
POA	Power of Attorney
RN	Registered Nurse
SNF	Skilled Nursing Facility
S/I	Self-inflicted
SSS	Supervisor of Social Services
SART	Substance Abuse Resource Team
SW	Social Worker
U/A	Unannounced
U/S	Undersigned
VAST	Vulnerable Abuse Services Team (also known as the forensic center)
W/C	Wheelchair

VII. ELDER'S' HEALTH CARE PROVIDERS

Several types of professionals may have a role in providing care for an elder or may study elder issues:

- **Geriatrician:** A Medical Doctor, board certified in Family Medicine or Internal Medicine, who has finished 2 or 3 additional years of study in the diseases and syndromes of older adults.
- **Gerontologist:** A person who has received a Masters or Ph.D. degree in the study of aging (is NOT a health care provider).
- **Administrator:** The staff member responsible for the overall management of a nursing home.
- **Medical Director:** A physician who oversees the medical services provided to nursing home patients. Patients may choose the medical director to be their personal physician or they may use any other physician who is willing to make visits to the facility. The Medical Director is required by law to visit patients in the facility monthly.
- **Director of Nursing:** The DON usually is a registered nurse who oversees all of the nursing staff at a long-term care facility.
- **Director of Staff Development:** The DSD is responsible for orientation and ongoing training of all staff at a long-term care facility.
- **Psychologist:** Clinical psychologists and counseling psychologists must have a doctoral degree (Ph.D. or Psy.D.). Both types of doctoral degrees require 5 to 7 years of graduate study, and the completion of a one year internship. Psychologists who offer patient care must meet certification and licensing requirements in the state in which they practice, including training, experience, an approved internship, and examinations. Various boards (e.g., American Psychological Association, National Council for Accreditation of Teacher Education, American Board of Professional Psychology) offer accreditation to qualifying psychologists.
 - *Neuropsychologist:* A clinical neuropsychologist has expertise in how behavior and skills are related to brain structures and systems, and evaluates brain function by objectively testing memory and thinking skills.
 - *Gero-psychologist:* A clinical gero-psychologist specializes in treatment of older adults.

VIII. ASSESSING FUNCTIONAL ABILITIES

The terms “Activities of Daily Living” (ADL) and “Instrumental Activities of Daily Living” (IADL) are used in evaluating a person’s functional abilities. Judicial officers may encounter these terms when reviewing medical or social service records, or when hearing testimony. Thirty-nine percent of elders have some type of functional limitation; 14% experience Instrumental Activities of Daily Living limitations, while 25% experience both IADL and at least one ADL limitations.

A. Activities of Daily Living (ADLs)

The seven functions needed to live independently at home:

- Toileting
- Feeding
- Dressing
- Grooming
- Transferring (in/out of chair, bed, etc.)
- Bathing
- Mobility (walking)

B. Instrumental Activities of Daily Living (IADLs)

The eight functions needed to live independently in the community:

- Managing finances
- Shopping
- Housekeeping
- Using the telephone
- Preparing food
- Doing laundry
- Taking transportation
- Managing medications

IX. COMMON MEDICAL CONDITIONS and GERIATRIC SYNDROMES

1) **Alcoholism**

A chronic, often progressive disease in which a person craves alcohol, and drinks despite repeated alcohol-related problems. Alcoholism involves a physical dependence on alcohol; other factors include genetic, psychological, and cultural influences.

2) **Alzheimer's disease**

The most common form of dementia. See “dementia”, page 58. A syndrome involving loss of memory and intellectual skills (such as language, judgment and spatial relations) severe enough to cause dysfunction in daily life. More than one in eight people aged 65 and older (13%) have Alzheimer's disease. Symptoms may include: problems with short term memory; confusion; concentration deficits; inappropriate behavior; paranoia; lack of initiative.

3) **Angina**

A disorder of the heart marked by periods of intense pain that occurs when a portion of the heart muscle temporarily does not receive an adequate supply of oxygen.

4) **Aphasia**

Impairment of language (can be receptive, expressive or both).

5) **Apraxia**

Inability to perform a motor task despite intact motor function (e.g., the person cannot put on clothing although there is nothing wrong with his/her arms).

6) **Autism**

A group of developmental disabilities that can cause significant social, communication and behavioral challenges. Autism Spectrum Disorders can range from very mild to severe, and affect each person in different ways.

7) **Bedbound or sedentary**

Confined to bed; bedridden. Physical disabilities and/or mental health issues may lead to severe limitations in mobility or to a person becoming bedbound. **Secondary problems that can be caused by being sedentary or bedbound include:** pressure sores (bedsores); weakness/deconditioning; contractures (frozen joints); malnutrition; dehydration; poor personal hygiene.

8) Cellulitis

A skin infection that can occur anywhere on the body, spreads rapidly, and generally requires a medical evaluation and treatment with antibiotics.

9) Cerebral Palsy (CP)

A group of disorders of movement and posture due to problems with the developing brain from an injury that occurs before or just after birth. A person with CP may also have difficulty with communication, cognition (i.e. mental retardation), and/or seizures.

10) Cerebrovascular accident (stroke)

Occurs when part of the brain does not receive an adequate oxygen supply and dies. Symptoms may include: weakness or paralysis on one side of the body; numbness on one side of the body; loss of balance or dizziness; inability to speak or slurred speech; cognitive changes. Functional effects may include: inability to walk safely; swallowing difficulties; memory problems; incontinence; inability to communicate clearly.

11) Chronic Fatigue Syndrome (CFS)

A condition with unknown causes that results in fatigue severe enough to interfere with normal work, recreation or social activities. Fatigue caused by CFS will NOT improve substantially with rest. Symptoms may include: sleep problems; memory problems; fever; headaches; muscle and joint pain; tender glands in the throat and neck; decreased ability to think clearly.

12) Chronic Obstructive Pulmonary Disease (COPD)

A group of lung diseases that involve limited airflow and lung tissue destruction. The most common forms of COPD are emphysema and chronic bronchitis. Symptoms may include: shortness of breath; wheezing and coughing persisting for months to years; decreased tolerance for exercise and activity; and in severe cases, dependence on mechanical ventilation and oxygen therapy. Complications may include heart failure and pneumonia.

13) Congestive Heart Failure (CHF)

Occurs when a heart is weak and cannot pump blood effectively. Fluid can “back up” into the lungs and legs and may cause difficulty in breathing and swollen legs (edema).

14) Coronary Artery Disease

Sometimes known as “hardening” or narrowing of the arteries that provide oxygen to the heart muscle. Symptoms may include: chest pain with exertion, often described as “pressure” or “crushing”; left sided pain, often radiating to the left arm; sweating; feeling of intense distress; shortness of breath. The quality of the pain/discomfort may differ, especially in women, and may be associated with sharp, stabbing pains, nausea or neck pain. If the chest pain episodes are occurring at rest or more frequently, medical care may be needed. Functional effects of coronary artery disease may include inability to walk safely, swallowing difficulties, memory problems, incontinence, and inability to communicate clearly.

- **Angina**: pain that occurs when a portion of the heart muscle temporarily does not receive an adequate supply of oxygen.
- **MI (Myocardial Infarction/ heart attack)**: irreversible damage to the heart from artery blockage resulting in death of part of the heart muscle.

15) Cystic Fibrosis

Most common lung disease affecting children and young adults; similar to emphysema (COPD) in older adults. Recurrent lung infections are common.

16) Dehydration

More likely to occur with medical conditions such as infection, diabetes, or any situation where a person stops drinking fluids. This may happen in cases of serious illness and/or neglect when a person is dependent on others for access to adequate fluids. Symptoms may include drowsiness or altered mental status; skin, lips and mouth appear dry; urination is decreased. Dehydration should always be considered when neglect or self-neglect is alleged. If a person is very weak, drowsy or confused due to dehydration this constitutes a medical emergency.

17) Delirium

Affects cognitive or thinking abilities, but is distinct from dementia. The causes of delirium are often reversible; many cases are due to medications or infections. Delirious individuals may have fluctuating awareness and experience hallucinations. Memory is affected; concentration is impaired; individuals are often not oriented to place and time. Any acute or sudden change from a baseline mental status should prompt suspicion for delirium. Elders with dementia are particularly susceptible to delirium. Symptoms may include: quick onset of decreased cognition; fluctuating cognition; disorientation; inattentiveness.

18) Dementia

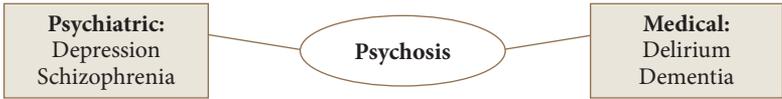
A syndrome involving loss of memory and intellectual skills (such as language, judgment and spatial relations) severe enough to cause dysfunction in daily life. The most common form of dementia is Alzheimer's disease. More than one in eight people aged 65 and older (13%) have Alzheimer's disease. Symptoms may include: problems with short term memory; confusion; concentration deficits; inappropriate behavior; paranoia; lack of initiative. There are different patterns of cognitive loss with different types of dementia (see table, below). Some dementias are accompanied by physical changes (motor symptoms) early in their course. Instrumental Activities of Daily Living may be affected as the person loses the ability to handle complex tasks such as money management and medication management. As the syndrome progresses, elders lose the ability to care for their basic needs.

Many people with dementia maintain excellent social skills, and may appear to respond appropriately to questions even though their responses are inaccurate. Checking with a caregiver or relative may yield more accurate and helpful information. Reversible illnesses that cause cognitive decline or dementia may be acute or chronic and include: depression; thyroid illnesses; vitamin deficiencies; advanced syphilis; subdural hematomas; delirium; normal pressure hydrocephalus.

TYPE OF DEMENTIA	CHARACTERISTICS
Alzheimer's disease (AD)	<i>Short term memory loss in early stages, long term memory loss in later stages.</i>
Frontal-Temporal dementia (FTD/ Pick's Disease)	<i>Personality and behavioral changes, loss of inhibitions may be apparent before memory problems develop.</i>
Normal pressure hydrocephalus (NPH)	<i>Includes a triad of (1) memory problems, (2) urinary incontinence, and (3) abnormal gait.</i>
Lewy body dementia	<i>Memory problems, fluctuating alertness and attention, and hallucinations; similar to Parkinsons disease symptoms (see page 63); psychosis is common.</i>
Vascular dementia	<i>Short and long term memory loss, sudden declines may be apparent (unlike Alzheimer's disease which is slowly progressive), may have deficits from strokes.</i>
Late Parkinson's disease	<i>Memory loss occurs in later stages, unsteady, shuffling gait, stiffness, resting tremor.</i>

19) Dementia-related Psychosis

Often associated with symptoms such as delusions, hallucinations, and paranoia. These symptoms are also part of many psychiatric diagnoses. Elders with dementia may have psychotic symptoms; individuals with psychiatric and medical illnesses may also suffer from psychosis.



- **Delusions:** fixed, false beliefs despite evidence that the belief is not true; various types of delusions include those of grandeur, persecution and paranoia.
- **Hallucinations:** perceptions, usually visual or auditory, that are not real. Hallucinations are common symptoms of psychosis related to mental disorders, dementia and delirium.
- **Illusions:** a false perception; an object or stimulus is mistaken for something that it is not.
- **Paranoia:** excessive and unreasonable fear that one is threatened or persecuted; the fear may be pervasive, affecting function.

20) Depression

More prevalent in the elderly than in younger people. Elders are often coping with multiple losses – spouses, friends, financial, status, driver’s license, independence – that may lead to depression. In 2006, 10% of men and 18% of women aged 65 and over exhibited clinically relevant depressive symptoms. Elderly men have the highest suicide rate. It is very common to find depression in people with dementia, especially early stage dementia. Depression in elders often affects thinking and memory even in the absence of dementia. Effective treatment may lead to improved thinking and memory, and improved quality of life. Some elders suffering from depression may not admit to feeling depressed. Symptoms may include: a decreased interest in activities; change in personality; complaints of memory decline; irritability. Depression is more common as the number of co-existing medical conditions increases.

21) Developmental disability

A diverse group of severe chronic conditions due to mental and/or physical impairments that result in problems with major life activities such as language, mobility, learning, self-help, and independent living. Developmental disabilities may begin at any point during development, up to 22 years of age, and usually last throughout a person's lifetime.

22) Diabetes Mellitus (DM)

An illness that causes blood sugar (glucose) levels to be dangerously high (hyperglycemia) or dangerously low (hypoglycemia), and can lead to a diabetic coma which is a life threatening condition. Diabetics control their blood sugar levels with diet, oral medicines and/or insulin. There are many different types of insulin that have varying effects. Symptoms of hyperglycemia may include: altered mental status, weakness, increased thirst, increased urination. Symptoms of hypoglycemia may include: tremors; headache, sweating; dizziness; confusion. Any diabetic with symptoms of hypoglycemia or hyperglycemia requires a medical evaluation. Both hyper- and hypoglycemia may lead to inappropriate or inaccurate responses.

23) Falls

A leading cause of death among the elderly. Indicators include: a slow or unsteady gait; walking with a shuffle; difficulty moving or standing. If an elder has fallen more than once in the past 6 months and abuse is suspected, an investigation should determine the frequency of falls, whether the elder has been injured or taken for medical care as a result, and whether anyone pushed the elder.

24) Fibromyalgia

A chronic pain disorder that causes widespread pain and tenderness in the muscles and soft tissues, as well as sleep problems and fatigue.

25) Hearing impairment

Approximately 45% of people over 65 have significant hearing impairment; in many cases, hearing can be improved with hearing aids.

26) Hepatitis

Inflammation of the liver. Hepatitis can be chronic or acute, often due to infection with viruses. Alcoholic hepatitis is also common and may lead to cirrhosis. Symptoms may include: abdominal pain; nausea; decreased appetite; jaundice; fatigue; fever.

27) Hodgkin's disease

A type of white blood cell cancer that manifests as painless lymphadenopathy (enlarged lymph nodes). Symptoms may include: fever; weight loss; night sweats.

28) Huntington's disease

A progressive disease of the brain, characterized by chorea (abnormal, involuntary movements) and dementia. Onset usually occurs between ages 30 and 50, and a parent usually has had the same illness.

29) Hypertension

High blood pressure that causes damage to the blood vessels in the eyes, kidneys and heart over time. Called the “silent killer” as it usually causes no symptoms for many years. A blood pressure reading consists of an upper (systolic) and lower (diastolic) number written as (Systolic/Diastolic). A reading of 140/90 represents the upper limits of normal blood pressure, however many older adults have a systolic blood pressure (SBP) of 160-180. While this is not usually an emergency, it may be a cause for concern. If blood pressure rises to dangerous levels quickly, it may cause headaches or chest pain and lead to heart attacks or strokes. Blood pressure that is too high may also cause delirium or confusion in some older adults.

30) Incontinence

Loss of bladder or bowel control; may be addressed with medication and/or diapers.

31) Kidney (renal) insufficiency or failure

Medical problems such as hypertension and diabetes mellitus may cause kidney damage and lead to kidney failure. Because the kidneys play a key role in excreting many medications, older adults with relatively minor renal disease may have toxic levels of medication in their bloodstream despite being on a “normal” dose of medication. At end-stage renal failure, patients must have dialysis which works as an “artificial” kidney by filtering toxins from the blood and maintaining appropriate levels of electrolytes such as sodium and potassium.

32) Malnutrition

A condition that develops when the body does not get the right amount of the vitamins, minerals, and other nutrients it needs to maintain healthy tissues and organ function. An elder with unexplained weight loss should consult a doctor. Losing 5% of one's body weight can indicate a serious problem that may be due to underlying medical problems such as cancer, but can also be a sign of neglect. An elder may be malnourished due to cognitive problems (doesn't know how to get food), physical problems (unable to prepare a meal or food is withheld), psychiatric problems (believes the food is poisoned) or a combination of several issues. Depression is a common cause of decreased appetite and weight loss. A person with malnutrition may not necessarily appear underweight, though if a person loses enough weight, he or she will appear emaciated. Malnutrition predisposes one to infections and pressure sores (see section V-A(5), Assessing Malnutrition, page 48).

33) Mental Retardation

A diagnosis applied to persons with an IQ of less than 70; an IQ from 71 to 84 indicates below- average functioning and adaptive behavior. Delayed development is usually evident in early childhood, and is generally classified as mild, moderate, severe or profound.

34) Multiple Sclerosis

A neurological disorder with episodic symptoms that may resolve and recur intermittently. Over time, neurological deficits may become more severe, leading to disability. Symptoms may include: weakness; numbness; vision problems.

35) Pancreatitis

A serious inflammation of the pancreas. There are many causes; one of the more common is heavy alcohol intake, especially in recurrent cases. Symptoms may include: abdominal pain; fever; nausea/vomiting.

36) Parkinson's Disease (PD)

A disorder of the brain that leads to shaking (tremors) and difficulty with walking, movement, and coordination. Parkinson's disease most often develops after age 50, and is one of the most common nervous system disorders of the elderly. Persons with PD lose the ability to control their movements and need medicine to decrease tremors and allow smoother motion. There is an increased risk for disability, falls, and inability to care for oneself. Most people are helped by medication and live well with PD for many years, though 25 to 40% develop dementia. Symptoms may include: resting tremors (especially in the hands); rigidity; masked facies (poker face); weakness; shuffling gait; poor balance.

37) Physical disability

A significant percentage of elderly living in the community (i.e., not institutionalized) have a disability that may include difficulty getting out of a chair, difficulty walking, favoring one side of the body over the other, and other limitations in their daily activities. Assistive devices can provide help with some physical disabilities.

38) Pneumonia

A serious lung infection. Symptoms may include: lethargy; shaking chills; shortness of breath/difficulty breathing; decreased appetite; fever and/or cough; altered mental status.

39) Seizures

Occur when electrical impulses in the brain are interrupted. The resulting symptoms will depend on the part(s) of the brain involved in the seizure and may affect the whole body or just a small part of the body.

40) Self-neglect

Behavior of an elder that threatens his/her health, welfare or safety. This may include refusing or failing to provide themselves with food, water, clothing, shelter, safety, hygiene and/or medication. The elder may or may not understand the consequences of his/her decisions. Symptoms of self-neglect may include: dehydration; malnutrition; unkempt personal appearance; dirty environment; utilities turned off; medicines mismanaged; signs of dementia, depression or drug/alcohol abuse.

41) Sepsis

Occurs when an infection, usually bacterial, spreads throughout the body via the bloodstream. The infection can start anywhere in the body, but commonly begins in the lung or urinary tract. The source may be chronic pressure sores. Sepsis has a very high mortality rate, especially in the elderly. Reduced level of consciousness and any change in mental status may be the only symptoms of a serious infection.

42) Shingles (Herpes zoster)

A very painful rash (looks like blisters) occurring along a dermatome or single nerve distribution; usually in an area on one side of the body, typically the back or chest wall. It may also occur on the face. Shingles can be contagious for people who are exposed to the fluid from the shingles' blisters and have never had chickenpox.

43) Traumatic Brain Injury

An injury to the brain caused by trauma to the head such as occurs from falls, accidents involving motor vehicles, and/or abuse. Symptoms vary greatly and may range from mild memory loss to personality change to coma.

44) Tuberculosis (TB)

A bacterial infection, usually pulmonary (lung), that is highly contagious. Tuberculosis is treated with multiple drugs that need to be taken daily for at least 9 months. Symptoms may include: coughing, including coughing blood; night sweats; weight loss.

X. MEDICATIONS *and* PRESCRIPTIONS

Judicial officers handling cases involving an elder may encounter lists of medications taken by an elderly litigant and other medical information. The following descriptions are designed to assist judicial officers in interpreting medication information provided to the court.

Note

- The same medication may be used to treat different conditions.
- Dosages vary based on the patient and the condition.

A. Understanding Prescription Terminology

Factors that may have significance in understanding the context and effect of medication in a legal case include:

- The medication being taken;
- The purpose for taking the medication;
- The dosage;
- The person responsible for procuring the medications if not the elder him/herself;
- The person responsible for dispensing the medications if not the elder him/herself.

UNDERSTANDING THE LABEL

1. Name

The complete name of the medicine

2. Dose

mg (*milligrams*)

mcg (*micrograms*)

mEq (*milliequivalent*)

IU (*International Units*)

% (*percent strength*)

3. How to take medicine

PO (*orally*)

PR (*rectally*)

IM (*inject intramuscularly*)

IV (*intravenously*)

SL (*sublingual or under the tongue*)

4. Frequency of taking medicine

QD (*once per day*)

BID (*twice per day*)

TID (*three times per day*)

QID (*four times per day*)

PRN medications are taken on an “as needed” basis. There are typically instructions that limit the frequency with which a person may take the medication. For example “one to two pills q 4 hours prn pain” means the person should take one or two pills every 4 hours if they have pain.

5. When to take medicine

AC (*before meal*)

PC (*after meals*)

HS (*afternoon or at bedtime*)

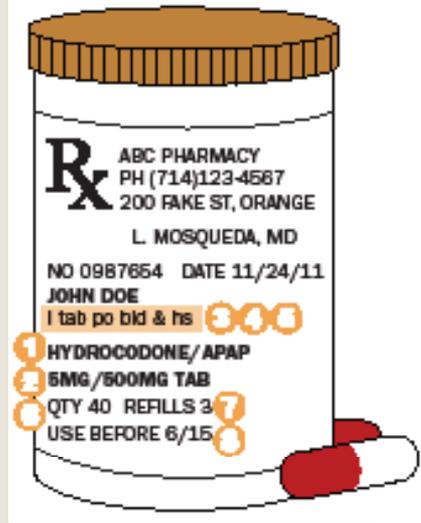
AM (*in the morning*)

PM (*in the evening*)

6. Quantity

7. Number of Refills

8. Expiration Date



“1 tab po bid & hs”

Translation: “Take 1 tablet by mouth, twice a day and at bedtime”

B. Medications That Require Particular Caution

❖ = indicates a controlled substance

- 1) **Benzodiazepines** ❖: (those ending in -“pam”) clonazepam, diazepam, temazepam, lorazepam. (Klonopin®, Valium®, Restoril®, Ativan®), used to treat insomnia or anxiety.
 - *Often associated with falls and memory problems.*
- 2) **Tricyclic antidepressants (TCAs)**: (ending in -tryptiline) amitriptyline or imipramine, Elaril®, Tofranil®.
 - *May cause confusion, dizziness, dry mouth, falls, memory problems.*
- 3) **Reglan® (Metoclopramide)**: Used to treat slow movement of the stomach, gastric reflux or heartburn.
 - *Side effects include dizziness, confusion, drowsiness, rigidity.*
- 4) **Theo-Dor® (Theophylline)**: Used to treat asthma.
 - *May have cardiac or heart effects. Can easily become toxic. Signs to watch out for are severe diarrhea, nausea, fast heart rate, agitation, seizures. There is also the potential for significant problems with drug interactions.*
- 5) **Benadryl® (Diphenhydramine) and Bentyl® (Dicyclomine)**: Benadryl is a component of Tylenol PM, Advil PM and many other non-prescription sleep medicines. Dicyclomine is a similar medicine found in many sleep preparations.
 - *May cause confusion and can be associated with falls.*
- 6) **Chronic anti-inflammatory medicines**: Motrin®, Ibuprofen, Naprosyn®, used for arthritis pain relief.
 - *May increase the risk of stomach bleeding and kidney problems in the elderly.*
- 7) **Sudafed®**: Over-the-counter allergy medication.
 - *May cause increase in blood pressure, agitation, anxiety, insomnia.*

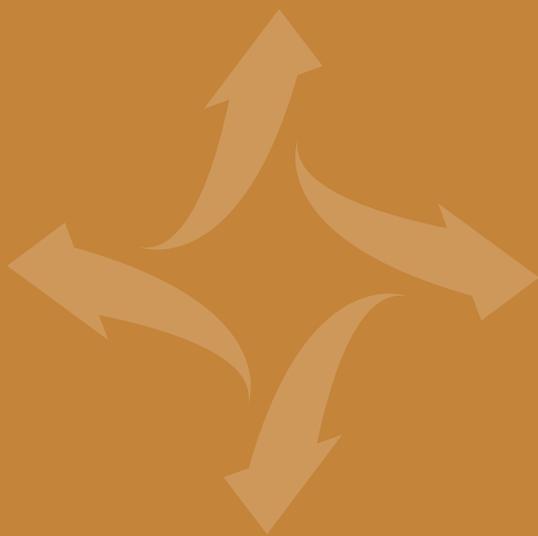
C. Herbal Medicines

Elders commonly use herbal treatments that are advertised as helpful for memory enhancement, joint pains and various other maladies. Some of these herbal medicines have been studied in the medical literature, although not very thoroughly, and some have serious side effects or may lead to dangerous complications when combined with other medications.

Common examples of herbal medicines and their uses include:

- **Cranberry:** (Urinary tract infection) Generally considered safe, but in large quantities can cause kidney stones.
- **Echinacea:** (Used to treat colds) Questionable efficacy. Not recommended for long term use. May over-stimulate the immune system.
- **Garlic:** (Cholesterol and blood pressure lowering) Not as effective as traditional medicines. May cause bleeding, bruising when used with other blood thinners.
- **Ginger:** (Motion sickness, nausea and vomiting) Not as effective as traditional medicines. May cause bleeding, bruising when used with other blood thinners.
- **Ginkgo biloba:** (Memory, circulation, ringing in the ears and impotence) Questionable efficacy. Studies do not demonstrate any benefit. May cause bleeding when used with other blood thinners.
- **Glucosamine, chondroitin, and MSM:** (Osteoarthritis) Glucosamine has had several clinical trials supporting its effectiveness. In many elders, it is better tolerated than anti-inflammatory medicines for arthritis.
- **St. John's Wort:** (Depression) Similar to traditional anti-depressants. It is important not to combine this medicine with other anti-depressants as it can cause "Serotonin Syndrome" (too much serotonin in the brain), and may also produce unwanted drug interactions.
- **Saw Palmetto:** (Prostate symptoms) Works similarly to traditional medications for prostate symptoms.

Appendices



APPENDIX A:

Elder Abuse Provisions in the California Code

The most significant provisions in the California Code to specifically address elder abuse are in the Welfare & Institutions Code and the Penal Code. Four chapters in the Welfare & Institutions Code address elder abuse: the “Elder Abuse and Dependent Adult Civil Protection Act,” §§15600-15675, “Protective Placements and Custody of Endangered Adults,” §§15700-15705.40, “Adult Protective Services,” §§15750-15766, and “Long-Term Care Ombudsman,” §§9700-9741.

In the Penal Code, the most pertinent provisions are located in “Crimes Against Elders, Dependent Adults and Persons with Disabilities,” Penal Code §368 et.seq. but there are many other relevant penal statutes including those that enhance punishment when a crime is committed against an elder. These chapters are briefly outlined below, together with a limited list of other code sections related to elder abuse.

The Probate Code provisions addressing conservatorships, capacity and other issues can also be relevant to elder abuse cases; several sections are listed below.

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1. Elder Abuse and Dependent Adult Civil Protection Act

Welfare & Institutions Code §§15600-15675

§15600: Legislature recognizes needs and problems of elders and dependent adults.

§15601: Encourages reporting of suspected cases of elder abuse and provides protection to non-malicious reporters.

§15610-15610.65: Definitions of types of abuse and other terms.

The Elder Abuse and Dependent Adult Civil Protection Act (Welfare & Institutions Code §§15600-15675) provides legal definitions for elements of elder abuse (Welfare & Institutions Code §§15610-15610.65).

- **“Abuse of an elder or a dependent adult”** means either of the following:
 - (a) Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering.
 - (b) The deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering (Welfare & Institutions Code §15610.07).

- **Physical abuse** includes assault, battery, assault with a deadly weapon or force likely to produce great bodily injury, sexual assault, and rape as defined by their respective Penal Code definitions. In the context of elder abuse, physical abuse also encompasses physical constraint, prolonged or continual deprivation of food or water, use of physical or chemical restraint or psychotropic medication for punishment or for any purpose not authorized by a physician who is providing medical care to the elder. (Although physical abuse as defined here encompasses sexual assault, it is sometimes treated as a distinct category that encompasses other acts such as inappropriate touching and forced viewing of pornographic materials.) (Welfare & Institutions Code §15610.63.)
- **Psychological/mental abuse (mental suffering)** is defined as “fear, agitation, confusion, severe depression, or other forms of serious emotional distress that is brought about by forms of intimidating behavior.” This conduct includes threats, harassment, intimidation, deceptive acts or false or misleading statements made with malicious intent to agitate, confuse, frighten, or cause severe depression or serious emotional distress of the elder or dependent adult (Welfare & Institutions Code §15610.53).
- **Abandonment** is defined as “the desertion or willful forsaking of an elder or a dependent adult by anyone having care or custody of that person under circumstances in which a reasonable person would continue to provide care and custody” (Welfare & Institutions Code §15610.05).
- **Abduction** means the removal from California and/or the restraint from returning to California of any elder or dependent adult who does not have the capacity to consent to the removal or the restraint from returning, or of any conservatee without the consent of the conservator or the court (Welfare & Institutions Code §15610.06).
- **Isolation** means acts intentionally committed for the purpose of preventing and that do prevent the elder or dependent adult from receiving phone calls or mail; telling a caller or prospective visitor that an elder or dependent adult is not present, or does not wish to talk with the caller, or does not wish to meet with the visitor where the statement is false, is contrary to the express wishes of the elder or the dependent adult, whether he or she is competent or not, and

is made for the purpose of preventing the elder or dependent adult from having contact with family, friends, or concerned persons; false imprisonment as defined in the Penal Code, or physical restraint of an elder or dependent adult to prevent the elder or dependent adult from meeting with visitors, unless these actions are taken pursuant to the instructions of the physician who is caring for the elder or dependent adult, or if they are in response to a reasonably perceived threat of danger to property or physical safety (Welfare & Institutions Code §15610.43).

- **Deprivation of goods or services necessary to avoid physical harm or mental suffering** includes deprivation of medical care for physical and mental health needs, assistance in personal hygiene, adequate clothing, adequately heated and ventilated shelter, protection from health and safety hazards, and protection from malnutrition under those circumstances where the results include, but are not limited to, malnutrition and deprivation of necessities or physical punishment; and deprivation of transportation and assistance necessary to secure any of these needs (Welfare & Institutions Code §15610.07; §15610.35).
- **Neglect** means the negligent failure of any person having the care or custody of an elder or a dependent adult to exercise the degree of care, or the elder himself or herself to exercise that degree of self-care, that a reasonable person in a like position would exercise. This includes, but is not limited to, failure to assist in personal hygiene, or in the provision of food, clothing or shelter; failure to provide medical care for physical or mental health needs; failure to protect from health and safety hazards; and failure to prevent malnutrition or dehydration. (No person shall be deemed neglected or abused for the sole reason that he or she voluntarily relies on treatment by spiritual means through prayer alone in lieu of medical treatment.) Neglect also includes the failure of an elder to satisfy these needs for himself/herself as a result of poor cognitive functioning, mental limitation, substance abuse, or chronic poor health (Welfare & Institutions Code §15610.57).

- **Financial abuse** of an elder or dependent adult occurs when a person or entity does any of the following:
 - 1) Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
 - 2) Assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
 - 3) Takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult by undue influence, as defined in Section 1575 of the Civil Code.

A person or entity shall be deemed to have taken, secreted, appropriated, obtained, or retained property for a wrongful use if, among other things, the person or entity engages in this conduct, and the person or entity knew or should have known that this conduct is likely to be harmful to the elder or dependent adult, and the elder or dependent adult is deprived of any property right, including by means of an agreement, donative transfer, or testamentary bequest, regardless of whether the property is held directly or by a representative of an elder or dependent adult. “Representative” means a person or entity that is either: a conservator, trustee, or other representative of the estate of an elder or dependent adult, or an attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney (Welfare & Institutions Code §15610.30).

§15630: Mandated reporters include any person who has paid or unpaid responsibility for care or custody of an elder or dependent adult or any administrator, supervisor or licensed staff of a facility which provides care or services of the elderly, or any employee of adult protective services or local law enforcement. Mandated reporters must report knowledge of or suspicion of abuse by phone and by a written report. Failure to report is a misdemeanor.

§15631: Any person who is not a mandated reporter may make a report of elder abuse.

§15633: Reports are confidential, with limited exceptions.

§15636: Adult Protective Services agency or the Long-Term Care Ombudsman may act only with the consent of the victim unless a violation of the Penal Code is alleged. If the abuse victim is incapacitated, conservatorship proceedings may be initiated.

§15640(a)(1): An Adult Protective Services agency shall cross-report to the law enforcement agency that has jurisdiction if there is knowledge or reasonable suspicion of criminal activity.

§15640(c),(d): Local law enforcement shall report to the Long-Term Care Ombudsman program or the Adult Protective Services agency every instance of known or suspected elder abuse.

§15653: Minimum guidelines for determining when investigation of abuse is warranted and guidelines for law enforcement assistance.

§15656: Elder abuse penalties for up to 4 years in state prison.

§15657.03: Victims of elder abuse may seek protective orders.

§15657.3(a): The department of the superior court having jurisdiction over probate conservatorships shall also have concurrent jurisdiction over civil actions and proceedings involving a claim for relief arising out of the abuse of an elderly or dependent adult, if a conservator has been appointed for the plaintiff prior to the initiation of the action for abuse.

CODE OF CIVIL PROCEDURE §527.9

§527.9(b): Upon the issuance of an Elder Abuse and Dependent Adult Civil Protection Act protective order against a person, the court shall order that person to relinquish any firearm in that person's immediate possession or control.

2. Protective Placements and Custody of Endangered Adults

Welfare & Institutions Code §§15700-15705.40

§15700(b): The purpose of this act is to enhance the protection of elderly persons and dependent adults by providing a mechanism for temporary emergency protective custody of elderly or dependent adults who are suspected victims of abuse or neglect, and who are found to be in a situation that poses an immediate risk of serious injury or death, and when no other means are available to mitigate the risk to the elderly or dependent adult.

§15705: The designated county agency shall initiate an investigation and file a petition for issuance of an emergency protective services order within 24 hours after the endangered adult has been taken into temporary emergency protective custody, and the court shall render its decision within a 72 hour period.

§15705.15: In its emergency order, the court shall appoint a temporary conservator of the endangered adult. Protective services may be provided through an emergency order for no more than 14 days, and may not include hospitalization or a change of residence unless the court specifically finds that action is necessary.

3. Adult Protective Services

Welfare & Institutions Code §§15750-15766

§15636: Adult Protective Services agency or the Long-Term Care Ombudsman may act only with the consent of the victim unless a violation of the Penal Code is alleged. If the abuse victim is incapacitated, conservatorship proceedings may be initiated.

§15755: Where Adult Protective Services caseworker has been denied access and there is probable cause to believe an elder is subject to abuse, law enforcement may seek a search warrant.

§15763(a): Each county shall establish an emergency response Adult Protective Services program to provide an in-person response, 24 hours per day, seven days per week, to reports of abuse of an elder or a dependent adult, for the purpose of providing immediate intake or intervention, or both, to new reports and to crises in existing cases.

4. Long-Term Care Ombudsman

Welfare & Institutions Code §§9700-9741

§§1568.01-1568.094: Residential Care Facilities For Persons with Chronic Life-Threatening Illness

§§1568.15-1568.17: Alzheimer's Day Care Resource Centers Act

§§1569-1569.889: Residential Care Facilities For the Elderly

§§1570-1596.5: California Adult Day Care Health Act

§§1599-1599.4: Skilled Nursing and Intermediate Care Facility Patient's Bill Of Rights.

§9722: Long-Term Care Ombudsmen have the right to enter long-term care facilities for the purpose of hearing, investigating, and resolving complaints by, or on behalf of, and rendering advice to, elderly individuals who are patients or residents of the facilities, including complaints of elder abuse.

§15636: Adult Protective Services agency or the Long-Term Care Ombudsman may act only with the consent of the victim unless a violation of the Penal Code is alleged. If the abuse victim is incapacitated, conservatorship proceedings may be initiated.

5. Crimes Against Elders, Dependent Adults and Persons With Disabilities

Penal Code §368 and other Penal Code Sections

§273.6(a): Any intentional and knowing violation of an Elder Abuse and Dependent Adult Civil Protection Act protective order is a misdemeanor.

§368: Felony physical or emotional abuse or criminal neglect by any person likely to cause serious bodily injury or death to an elder (age 65 or over) or dependent adult.

§368(b)(2): Sentence enhancement if physical injury is inflicted on an elder victim under 70 years of age and is increased if victim is over age 70.

§368(b)(3): Sentence enhancement if crime results in death of an elder victim under 70 years of age and is increased if victim is over age 70.

§368(c): Misdemeanor physical or emotional abuse or criminal neglect by any person.

§368(d): Felony theft or embezzlement of property over \$950 value of an elder or dependent adult *by any person* (not a caretaker) is fiduciary abuse.

§368(e): Felony theft or embezzlement of property over \$950 value of an elder or dependent adult *by a caretaker* is fiduciary abuse.

§368(f): False imprisonment of an elder or dependent adult by use of violence, menace, fraud or deceit.

§368.5: Local and state law enforcement have concurrent jurisdiction to investigate elder and dependent adult abuse. Adult Protective Services and Long Term Care Ombudsman programs have jurisdiction to investigate elder and dependent adult abuse and criminal neglect, and may assist local law enforcement in criminal investigations.

§11174.5: Counties may establish Interagency Elder and Dependent Adult Death Review Teams to assist in identifying and reviewing suspicious elder and dependent adult deaths, and facilitate communication among persons who perform autopsies and the agencies involved in elder and dependent adult abuse or neglect cases.

§13515: Every city police officer or deputy sheriff at a supervisory level and below who is assigned field or investigative duties must complete an elder and dependent adult abuse training course certified by the Commission on Peace Officer Standards and Training within 18 months of assignment to field duties.

6. Civil Harassment Restraining Order

Code of Civil Procedure § 527.6

§527.6: A person who has suffered harassment may seek a temporary restraining order and an injunction prohibiting harassment.

7. Family Code Protective Orders

Family Code §§6200-6409

§§6200-6229: Domestic Violence Prevention Act.

§§6240-6275: Emergency Protective Orders.

§6250: A judicial officer may issue an ex parte emergency protective order where a law enforcement officer asserts reasonable grounds to believe that an elder or dependent adult is in immediate and present danger of abuse, based on an allegation of a recent incident of abuse or threat of abuse by the person against whom the order is sought, except that no emergency protective order shall be issued based solely on an allegation of financial abuse.

§6252: An Emergency Protective Order for an elder may include all of the restraining and other orders authorized under an Elder or Dependent Adult Protective Order.

§§6300-6409: Protective orders and other domestic violence prevention orders.

§6324: The court may issue an ex parte order determining the temporary use, possession, and control of real or personal property of the parties and the payment of any liens or encumbrances coming due during the period the order is in effect.

§6341: (a) The court may, if requested by the petitioner, order a party to pay an amount necessary for the support and maintenance of the child if the order would otherwise be authorized in an action brought pursuant to the Uniform Parentage Act. (c) If the parties are married to each other and no spousal support order exists, after notice and a hearing, the court may order the respondent to pay spousal support.

§6343: (a) After notice and a hearing, the court may issue an order requiring the restrained party to participate in a batterer's program approved by the probation department as provided in Section 1203.097 of the Penal Code.

8. Financial Abuse of Elders

BUSINESS & PROFESSIONS CODE

§6126: Prohibits the unauthorized practice of law and makes a person holding himself/herself out as an attorney, such as sellers of living trusts, guilty of a misdemeanor. (*Note:* this provision is not enforceable by private parties.)

§§6450-6456: Prohibits paralegals from providing legal advice. Some unethical living trust salespeople provide legal advice, and thus violate the statute.

§17200: Prohibits unlawful, unfair, or deceptive acts, and is a commonly used enforcement tool by private attorneys in civil actions acting for the interests of the general public. Acts of unfair competition perpetrated against elders are subject to additional penalties.

§17206.1: Provides for additional civil penalties to be imposed for unfair or fraudulent business practice violations against persons age 65 and over, and restitution to be given priority over recovery of civil penalties.

§17500: Provides a penalty for false or misleading statements made by any person, firm, corporation, or association with respect to the disposal of real or personal property or the performance of services.

CIVIL CODE

§2224: One who gains a thing by fraud, accident, mistake, undue influence or other wrongful acts is an involuntary trustee for the benefit of the person who would otherwise have had the thing.

§3344: Provides for protection against salespeople who falsely use trusted names to legitimize their product.

§3345: Permits the trier of fact to impose treble damages when seniors are the victims of misrepresentations by salespeople who falsely use trusted names to legitimize their misrepresentations.

§1575: Undue influence occurs when someone in a position of trust or authority takes unfair advantage of another, or when unfair advantage is taken of another person's weakness of mind or distress.

§1750: The California Consumer Legal Remedies Act includes specific enhanced penalties and protections for seniors.

§1770: Lists proscribed practices in the sale or lease of goods or services on the ground they are "unfair methods of competition" or "unfair or deceptive acts"; **§1770(a)(23)** applies to home solicitations of a consumer who is a senior citizen where a loan is made encumbering the primary residence of that consumer for the purposes of paying for home improvements.

§1780(b): Applies an extra \$5,000 in damages for misrepresentation against a senior or disabled person.

FAMILY CODE

§2210: Voidable marriage due to fraud, undue influence, consent obtained by force.

§6250: A judicial officer may issue an ex parte emergency protective order where a law enforcement officer asserts reasonable grounds to believe that an elder or dependent adult is in immediate and present danger of abuse, based on an allegation of a recent incident of abuse or threat of abuse by the person against whom the order is sought, except that no emergency protective order shall be issued based solely on an allegation of financial abuse.

§6252: An Emergency Protective Order for an elder may include all of the restraining and other orders authorized under an Elder or Dependent Adult Protective Order.

GOVERNMENT CODE

§27388: Recording fees shall be used to fund the Real Estate Fraud Prosecution Trust Fund for use by law enforcement agencies.

INSURANCE CODE

§785: Provides for a duty of honesty, good faith, and fair dealing (often covers annuity salespeople).

§789: Provides the commissioner with administrative authority to assess penalties against insurers, brokers, agents, and other entities engaged in the transaction of insurance.

PENAL CODE

§368: Felony physical or emotional abuse or criminal neglect by any person likely to cause serious bodily injury or death to an elder (age 65 or over) or dependent adult.

§368(d): Felony theft or embezzlement of property over \$950 value of an elder or dependent adult *by any person* (not a caretaker) is fiduciary abuse.

§368(e): Felony theft or embezzlement of property over \$950 value of an elder or dependent adult *by a caretaker* is fiduciary abuse.

PROBATE CODE

§259: Any person found liable for physical abuse, neglect, false imprisonment or fiduciary abuse (fraud and undue influence) of an elder or dependent adult decedent shall be deemed to have predeceased the decedent, and shall not receive any award from the decedent's estate or be allowed to serve as a fiduciary.

§2950: In order to reduce the incidence of financial abuse of mentally impaired elders and minimize their monetary losses, any peace officer trained in assessment of competence or a county public guardian is authorized to assess competence of elders to facilitate timely intervention to protect elder victims and recover their assets.

§6104: The execution or revocation of a will or a part of a will is ineffective to the extent it was procured by duress, menace, fraud, or undue influence.

§8252: In a will contest, the burden of proof of due execution is on proponents; contestants have the burden of proof of lack of testamentary intent or capacity, undue influence, fraud, duress, mistake or revocation.

WELFARE & INSTITUTIONS CODE

§15610.30: For purposes of the Elder Abuse and Dependent Adult Civil Protection Act, financial abuse of an elder or dependent adult occurs when a person or entity does any of the following:

- 1) Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
- 2) Assists in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both.
- 3) Takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting, appropriating, obtaining, or retaining, real or personal property of an elder or dependent adult by undue influence, as defined in Section 1575 of the Civil Code. A person or entity shall be deemed to have taken, secreted, appropriated, obtained, or retained property for a wrongful use if, among other things, the person or entity engages in this conduct, and the person or entity knew or should have known that this conduct is likely to be harmful to the elder or dependent adult, and the elder or dependent adult is deprived of any property right, including by means of an agreement, donative transfer, or testamentary bequest, regardless of whether the property is held directly or by a representative of an elder or dependent adult. "Representative" means a person or entity that is either: a conservator, trustee, or other representative of the estate of an elder or dependent adult, or an attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney.

9. Judicial System Supports for Elderly Victims/Witnesses

PENAL CODE

§264.02: An elder has the right to have a support person present at a forensic examination.

§679.04: An elder has the right to have a support person present during a formal interview by law enforcement, prosecutors and defense attorneys, when the elder is the victim of a sexual assault.

§868.5: An elder has the right to have a support person present at a preliminary hearing, at trial, and in a juvenile court hearing.

§939.21: An elder has the right to have a support person present when an elder who is a prosecution witness (and a “dependent person”) is providing grand jury testimony.

§§1335-1345: Examination of Witnesses Conditionally. Courts have alternative methods for obtaining and preserving testimony of an elder victim or witness, including depositions; telephonic hearings; substituting an elder’s court appearance with a conditional examination using a magistrate or court reporter; videoconferencing; using videotaped testimony.

10. Conservatorships and Related Probate Code Sections

PROBATE CODE

§259: Any person found liable for physical abuse, neglect, false imprisonment or fiduciary abuse (fraud and undue influence) of an elder or dependent adult decedent shall be deemed to have predeceased the decedent, and shall not receive any award from the decedent’s estate or be allowed to serve as a fiduciary.

§810: Rebuttable presumption that all persons have capacity to make decisions. A judicial determination that a person lacks legal capacity to perform a specific act should be based on evidence of a deficit in the person’s mental function rather than a diagnosis of a person’s mental or physical disorder.

§811: A deficit in mental functions may be considered only if the deficit, by itself or in combination with one or more other mental function deficits, significantly impairs the person's ability to understand and appreciate the consequences of his or her actions with regard to the type of act or decision in question.

§§1800-1970: Probate Conservatorships

§1800: Legislative intent to: protect the rights of persons who are placed under Conservatorship; provide that an assessment of the needs of the person is performed in order to determine the appropriateness and extent of a conservatorship and to set goals for increasing the conservatee's functional abilities to whatever extent possible; provide that the health and psychosocial needs of the proposed conservatee are met; provide that community-based services are used to the greatest extent in order to allow the conservatee to remain as independent and in the least restrictive setting as possible; provide that the periodic review of the conservatorship by the court investigator shall consider the best interests of the conservatee; ensure that the conservatee's basic needs for physical health, food, clothing, and shelter are met; provide for the proper management and protection of the conservatee's real and personal property.

§1800.3: The court may appoint a conservator of the person or estate of an adult, or both. No conservatorship of the person or of the estate shall be granted by the court unless the court makes an express finding that the granting of the conservatorship is the least restrictive alternative needed for the protection of the conservatee.

§1801: A conservator of the person and estate may be appointed for a person who is unable to provide for his/her personal needs or who is substantially unable to handle his/her own financial resources or resist fraud or undue influence. The standard of proof for the appointment of a conservator shall be clear and convincing evidence.

§1820: A petition for the appointment of a conservator may be filed by the proposed conservatee, spouse, domestic partner, relative, interested state or local entity, or interested person or friend of the proposed conservatee.

§1821: Contents of the petition and supplemental information which addresses the proposed conservatee's inability to properly provide for his/her needs for physical health, food, clothing, and shelter; use of confidential supplemental information form.

§1826: Court investigator's duties; distribution and confidentiality of investigator's report.

§1835: Conservator's rights, duties, limitations and responsibilities; dissemination of information by county; failure to provide information does not relieve conservator of any duties.

§1850: Review of conservatorship.

§1852: Right to termination of conservatorship or removal of existing conservator or other modification, if it is in the best interests of the conservatee.

§2340: Professional fiduciaries.

§2351: Powers and duties of conservators.

§2401.3: Breach of fiduciary duty; liability.

§§2580-2586: Court review and determination whether to authorize conservator's proposed action, or to require conservator to take action to benefit conservatee or estate.

§§2650-2662: Removal or resignation of guardian or conservator.

§2900-2944: Public Guardian.

§2950: In order to reduce the incidence of financial abuse of mentally impaired elders and minimize their monetary losses, any peace officer trained in assessment of competence or a county public guardian is authorized to assess competence of elders to facilitate timely intervention to protect elder victims and recover their assets.

§2952: The public guardian is authorized to rely on a peace officer's declaration to take possession or control of the elder's property.

§2953: Court determination whether there is sufficient evidence to justify the certificate of authority by the public guardian and the imposition on civil liberties caused by the certification; reasonable fees for a public guardian who is appointed as temporary or general conservator and has taken possession or control of an elder's property.

§4000-4465: Powers of Attorney.

§§4500-4545: Judicial proceedings concerning Powers of Attorney.

§§4600-4806: Health Care Decisions.

§6100.5: Persons not mentally competent to make a will.

§§21340-21356: Construction of wills, trusts, and other instruments; limitations on transfers to drafters and others.

11. Lanterman-Petris-Short Act Conservatorship

Welfare & Institutions Code §§5000-5550

§§5000-5550: The Lanterman-Petris-Short Act

§5350: A Lanterman-Petris-Short Act conservatorship is one in which a conservator of the person, the estate, or both may be appointed for someone who is gravely disabled as a result of a mental disorder or impairment by chronic alcoholism who is unwilling to accept or incapable of accepting voluntary treatment.

§5358: Authorizes involuntary commitment of the conservatee to enable treatment of an elder's mental disorder or chronic alcoholism and to protect the public.

Appendix B:

Common Abbreviations for Medical Terms

The following terms are often abbreviated in medical records or other reports that may be submitted to the court and considered as part of the judicial officer's deliberations.

AAA	abdominal aortic aneurysm
ADL	Activities of Daily Living
AH	auditory hallucination
AI	aortic insufficiency (heart valve abnormality)
AKA	above the knee amputation
AMA	against medical advice
AMS	altered mental status
ARF	acute renal failure (sudden kidney failure)
AS	aortic stenosis
BKA	below the knee amputation
BP	blood pressure
CA	cancer
CAD	coronary artery disease(hardening of the arteries)
CHF	congestive heart failure
C/O	complains of
COPD	chronic obstructive pulmonary disease (emphysema)
CP	chest pain or cerebral palsy
CPPD	calcium pyrophosphate disease (type of arthritis)
CRF	chronic renal failure
CVA	cerebrovascular accident (stroke)
DI	diabetes insipidus (typically begins in childhood/youth)
DJD	degenerative joint disease (osteoarthritis)
DM	diabetes mellitus
EMS	emergency medical services

ESLD	end stage liver disease/failure
ESRD	end stage renal (kidney) disease/failure
ETOH	ethanol (alcohol)
FX	fracture
GERD	gastroesophageal reflux disease (heartburn)
HCM	hypertrophic cardiomyopathy (heart abnormality)
HI	homicidal ideation
HOH	hard of hearing
HR	heart rate
HTN	hypertension (high blood pressure)
IADL	Instrumental Activities of Daily Living
IBS	irritable bowel syndrome
LOC	loss of consciousness
LVH	left ventricular hypertrophy (enlarged muscle of a heart's chamber)
MI	myocardial infarction (heart attack)
MR	mitral regurgitation (heart valve abnormality)
MS	multiple sclerosis or mitral stenosis (heart valve abnormality)
NIDDM	non-insulin dependent diabetes mellitus
NWB	non-weight bearing
OA	osteoarthritis
OBS	organic brain syndrome (used to describe decreased mental function due to a medical disease, other than a psychiatric illness; often used synonymously, but incorrectly, with dementia)
OR/F	open reduction/internal fixation (surgical procedure to repair some types of fractures)
PCKD	polycystic kidney disease
PD	Parkinson's disease
PNA	pneumonia
PND	paroxysmal nocturnal dyspnea (difficulty breathing while lying down at night; may be a symptom of heart failure)

PVD	peripheral vascular disease
RA	rheumatoid arthritis
SBE	subacute bacterial endocarditis (infection of heart valve)
SBO	small bowel obstruction
SI	suicidal ideation
SOB	shortness of breath
SOBOE	shortness of breath on exertion
S/P	status post (clinical shorthand referring to a state that follows an intervention)
SZ	seizure
THR	total hip replacement
TIA	transient ischemic attack (brief interruption of blood supply to a part of the brain causing stroke-like symptoms that completely resolve within 72 hours)
UI	urinary incontinence
UTI	urinary tract infection
VH	visual hallucination
Y/O	year old

Appendix C:

Medications Commonly Prescribed for Elders (By Brand Name)

* = Available without a prescription

❖ = Controlled substance

Brand Name	Generic Name	Usage
ACCUPRIL	Quinapril	Blood pressure; heart failure
ACEON	Perindopril	Blood pressure; heart failure
ACHROMYCIN	Tetracycline	Bacterial infection
ACIPHEX	Rabeprazole	Ulcer; Heartburn
ACTOS	Pioglitazone	Diabetes
ADALAT	Nifedipine	Chest pain
ADVIL *	Ibuprofen	Pain; Arthritis; Inflammation
AEROBID	Flunisolide	Asthma
AFRIN *	Oxymetazoline	Nasal stuffiness
AFTATE *	Tolnaftate	Fungal infection
AGGRENOL	Dipyridamole+ aspirin	Stroke prevention
AKINETON	Biperidin	Parkinson's disease
ALDACTONE	Spiroonolactone	Diuretic; Heart failure
ALDOMET	Methyldopa	Blood pressure
ALLEGRA	Fexofenadine	Allergy
ALPHAGAN	Brimonidine	Glaucoma
ALTACE	Ramipril	Blood pressure; heart failure
ALTERNAGEL *	Aluminum	Antacid
ALU-CAP		
ALU-TAB *	Aluminum	Antacid
ALUPENT	Metaproterenol	Asthma
AMBIEN ❖	Zolpidem	Sleep
AMOXIL	Amoxicillin	Bacterial infection
AMPHOGEL *	Aluminum	Antacid
ANAFRANIL	Clomipramine	Depression
ANAPROX	Naproxen	Pain; Arthritis; Inflammation

* = Available without a prescription ♦ = Controlled substance

Brand Name	Generic Name	Usage
ANUSOL-HC *	Hydrocortisone	Inflammation
ANSAID	Flurbiprofen	Pain; Arthritis; Inflammation
ANTABUSE	Disulfiram	Alcohol
ANTIVERT	Meclizine	Dizziness
ANUSOL *	Phenylephrine	Hemorrhoids
APRESOLINE	Hydralazine	Blood pressure
ARICEPT	Donepezil	Alzheimer's disease
ARMOUR THYROID	Thyroid Dessicated	Thyroid hormone replacement
ARTANE	Trihexyphenidyl	Parkinson's disease
ASCRIPTIN *	Aspirin	Pain; Fever; Inflammation
ASMACORT	Triamcinolone	Asthma
ATACAND	Candesartan	Blood pressure
ATARAX	Hydroxyzine	Itching
ATIVAN®	Lorazepam	Anxiety
ATROMID	Clofibrate	High cholesterol
ATROVENT	Ipratropium	Asthma
AUGMENTIN	Amoxicillin/ Clavulanic Acid	Bacterial infection
AVANDIA	Rosiglitazone	Diabetes
AVAPRO	Irbesartan	Blood pressure
AVELOX	Moxifloxacin	Bacterial infection
AXID (AR*)	Nizatidine	Ulcer; GERD
AZOPT	Brinzolamide	Glaucoma
BACLOFEN	Lioresal	Muscle relaxant
BACTRIM	Sulfamethoxazole/ Trimethoprim	Bacterial infection
BECLOVENT; BECONASE	Beclomethasone	Asthma; Allergy
BENADRYL *	Diphenhydramine	Parkinson's disease
BENEMID	Probenecid	Gout
BENTYL	Dicyclomine	Stomach problem
BENYLIN *	Dextromethorphan	Cough

* = Available without a prescription ❖ = Controlled substance

Brand Name	Generic Name	Usage
BETAGAN	Levobunolol	Glaucoma
BETIMOL	Timolol	Glaucoma
BETOPTIC	Betaxolol	Glaucoma
BIAXIN	Clarithromycin	Bacterial infection
BLOCADREN	Timolol	Blood pressure; chest pain
BRICANYL; BRETHAIR BRETHINE	Terbutaline	Asthma
BUFFERIN *	Aspirin	Pain; Fever; Inflammation
BUMEX	Bumetanide	Diuretic
BUSPAR	Buspirone	Anxiety
CAFERGOT	Ergotamine/Caffeine	Headache
CALAN	Verapamil	Chest pain; Blood pressure; Heart rate control
CALCIPARINE	Heparin	Prevent blood clots
CALTRATE 600 *	Calcium Carbonate	Antacid; Calcium supplement
CAPOZIDE	Captopril/ Hydrochlorothiazide	Blood pressure; heart failure
CARAFATE	Sucralfate	Ulcer
CARDENE	Nicardipine	Chest pain; Blood pressure
CARDIZEM	Diltiazem	Chest pain; Blood pressure
CARDURA	Doxazosin	Blood pressure
CATAPRES	Clonidine	Blood pressure
CECLOR	Cefaclor	Bacterial infection
CEFADYL	Cefapirin	Bacterial infection
CEFTIN	Cefuroxime axetil	Bacterial infection
CEFZIL	Cefprozil	Bacterial infection
CELEBREX	Celecoxib	Osteoarthritis; Pain
CELEXA	Citalopram	Depression
CENTRAX	Prazepam	Anxiety
CHERACOL *	Guaifenesin	Cough; Nasal stuffiness
CHLOR- TRIMETON *	Chlorpheniramine	Allergy

* = Available without a prescription ❖ = Controlled substance

Brand Name	Generic Name	Usage
CHOLYBAR	Cholestyramine	High cholesterol
CHRONULAC	Lactulose	Laxative
CIBALITH	Lithium	Mania
CIPRO	Ciprofloxacin	Bacterial infection
CLEOCIN	Clindamycin	Bacterial infection
CLINORIL	Sulindac	Arthritis
CLOZARIL	Clozapine	Tranquilizer
COGENTIN	Benzotropine	Parkinson's disease
COGNEX	Tacrine	Alzheimer's disease
COLACE *	Docusate Sodium	Stool softener
COLESTID	Colestipol	High cholesterol
COMPAZINE	Prochlorperazine	Vomiting; Tranquilizer
COMTAN	Entacapone	Parkinson's disease
COREG	Carvedilol	Blood pressure; heart failure
CORGARD	Nadolol	Blood pressure; chest pain
CORTAID; CORTEF; CORTIFOAM	Hydrocortisone	Inflammation
COSOPT	Dorzolamide + Timolo	Glaucoma
COUMADIN	Warfarin	Prevent blood clots
COZAAR	Losartan	Blood pressure
CROLOM	Cromolyn sodium	Eye allergy
CYLERT	Pemoline	CNS stimulant
CYTOMEL	Liothyronine	Thyroid hormone replacement
CYTOTEC	Misoprostol	Ulcer
DALMANE ❖	Flurazepam	Hypnotic
DANTRIUM	Dantrolene	Muscle Relaxant
DARVOCET ❖	Propoxyphene/ Acetaminophen	Pain
DARVON ❖	Propoxyphene	Pain
DATRIL *	Acetaminophen	Pain; Arthritis
DELSYM *	Dextromethorphan	Cough
DELTASONE	Prednisone	Inflammation

* = Available without a prescription ❖ = Controlled substance

Brand Name	Generic Name	Usage
DEMADEX	Torseamide	Diuretic
DEMEROL ❖	Meperidine	Pain
DEPAKENE	Valproic Acid	Seizure
DEPAKOTE	Divalproex Sodium	Seizure
DESYREL	Trazodone	Depression
DIABETA	Glyburide	Diabetes
DIABINESE	Chlorpropamide	Diabetes
DIALOSE *	Docusate Sodium	Stool softener
DIAMOX	Acetazolamide	Glaucoma
DIASORB *	Attapulgit	Diarrhea
DICARBOSIL *	Calcium Carbonate	Antacid; Calcium supplement
DIFLUCAN	Fluconazole	Fungal infection
DILANTIN	Phenytoin	Seizure
DILAUDID ❖	Hydromorphone	Pain
DIMETANE *	Bromopheniramine	Allergy
DIMETAPP	Phenylephrine, Brompheniramine	Allergy; Nasal stuffiness
DIOVAN	Valsartan	Blood pressure
DIPROLENE; DIPROSONE	Betamethasone	Inflammation
DISALCID	Salsalate	Inflammation
DITROPAN	Oxybutynin	Urinary incontinence
DIULO	Metolazone	Diuretic
DIURIL	Chlorothiazide	Diuretic
DOLOBID	Diflunisal	Pain; Arthritis
DOLOPHINE ❖	Methadone	Pain
DORAL ❖	Quazepam	Hypnotic
DRAMAMINE *	Dimenhydrinate	Motion sickness; Dizziness
DRISTAN *	Phenylephrine Chlorpheniramine	Nasal stuffiness
DRISTAN LONG ACTING *	Oxymetazoline	Nasal stuffiness

* = Available without a prescription ❖ = Controlled substance

Brand Name	Generic Name	Usage
DRIXORAL *	Phenylephrine Dexbropeniramine	Nasal stuffiness
DULCOLAX *	Bisacodyl	Laxative
DURICEF	Cefadroxil	Bacterial infection
DYNACIRC	Isradipine	Blood pressure
DYNAPEN	Dicloxacillin	Bacterial infection
DYRENIUM	Triamterene	Diuretic
E.E.S.	Erythromycin ethylsuccinate	Bacterial infection
ECOTRIN *	Aspirin	Pain, Fever, Inflammation
ELAVIL	Amitriptyline	Depression
ELDEPRYL	Selegiline	Parkinson's disease
EMPIRIN *	Aspirin	Pain, Fever, Inflammation
E-MYCIN	Erythromycin	Bacterial infection
EQUANIL ❖	Meprobamate	Anxiety
ERGOSTAT	Ergotamine	Migraine headache
ERYC	Erythromycin	Bacterial infection
ERYPED	Erythromycin ethylsuccinate	Bacterial infection
ERY-TAB	Erythromycin	Bacterial infection
ERYTHROCIN STEARATE	Erythromycin stearate	Bacterial infection
ERYTHROMYCIN BASE	Erythromycin	Bacterial infection
ESIDRIX	Hydrochlorothiazide	Diuretic
ESTACE; ESTRADERM	Estradiol	Estrogen replacement
EXELON	Rivastigmine	Alzheimer's disease
EX-LAX *	Bisacodyl	Laxative
FELDENE	Piroxicam	Pain; Arthritis; Inflammation
FEOSOL; FERGON *	Ferrous sulfate	Iron supplement
FIBERALL *	Psyllium	Laxative
FIBERCON *	Calcium Polycarbophil	Laxative

* = Available without a prescription ❖ = Controlled substance

Brand Name	Generic Name	Usage
FIORICET ❖	Acetaminophen/ Butalbital/Caffeine	Pain
FIORINAL ❖	Aspirin/Butalbital/ Caffeine	Pain
FLAGYL	Metronidazole	Bacterial infection
FLEXERIL	Cyclobenzaprine	Muscle relaxant
FLOMAX	Tamsulosin	Prostate enlargement
FLORINEF	Fludrocortisone	Inflammation
FLOXIN	Ofloxacin	Bacterial infection
FURADANTIN	Nitrofurantoin	Urinary bacterial infection
GABITRIL	Tiagabine	Seizure
GANTRISIN	Sulfisoxazole	Bacterial infection
GLUCOPHAGE	Metformin	Diabetes
GLUCOTROL	Glipizide	Diabetes
GLUCOVANCE	Metformin + Glyburide	Diabetes
GLYSET	Miglitol	Diabetes
GYNE- LOTRIMIN *	Clotrimazole	Vaginal yeast infection
HABITROL *	Nicotine	Stop smoking
HALCION ❖	Triazolam	Hypnotic
HALDOL	Haloperidol	Tranquilizer
HISMANAL	Astemizole	Allergy
HYDROCORTONE	Hydrocortisone	Inflammation
HYDRODIURIL	Hydrochlorothiazide	Diuretic
HYDROTON	Chlorthalidone	Diuretic
HYTRIN	Terazosin	Blood pressure
HYZAAR	Losartan + Hydrochlorothiazide	Blood pressure
ILOSONE	Erythromycin estolate	Bacterial infection
IMDUR	Isosorbide mononitrate	Chest pain
IMITREX	Sumatriptan	Migraine headache
IMODIUM *	Loperamide	Diarrhea
INDERAL	Propranolol	Blood pressure, Chest pain, Heart rate control, Migraine

* = Available without a prescription ♦ = Controlled substance

Brand Name	Generic Name	Usage
INDOCIN	Indomethacin	Pain; Arthritis; Inflammation
INH	Isoniazid	Tuberculosis
INTAL	Cromolyn	Asthma, Allergy
IOPIDINE	Apraclonidine	Glaucoma
ISOPTIN	Verapamil	Chest pain; Blood pressure; Heart rate control
ISOPTO CARPINE	Pilocarpine	Glaucoma
ISORDIL	Isosorbide dinitrate	Chest pain
KAON	Potassium chloride	Potassium supplement
KAOPECTATE *	Attapulgite	Diarrhea
K-DUR	Potassium chloride	Potassium supplement
KEFLEX; KEFTAB	Cephalexin	Bacterial infection
KENALOG	Triamcinolone	Inflammation
KEPPRA	Levetiracetam	Seizure
KERLONE	Betaxolol	Blood pressure
KLONOPIN	Clonazepam	Seizure
KLOR-CON; KLOTRIX	Potassium chloride	Potassium supplement
KWELL	Lindane	Lice; Scabies
LAMICTAL	Lamotrigine	Seizure
LANOXIN	Digoxin	Heart rate control
LASIX	Furosemide	Diuretic
LEVOTHROID	Levothyroxine	Thyroid hormone replacement
LEVSIN	Hyoscyamine	Urinary incontinence
LIBRITABS ♦	Chlordiazepoxide	Anxiety
LIBRIUM ♦	Chloridiazepoxide	Anxiety
LIDEX	Fluocinonide	Inflammation
LIPITOR	Atorvastatin	High cholesterol
LIQUAEMIN	Heparin	Prevent blood clots
LITHOBID	Lithium	Mania
LODINE	Etodolac	Pain; Arthritis; Inflammation
LONITEN	Minoxidil	Blood pressure

* = Available without a prescription ❖ = Controlled substance

Brand Name	Generic Name	Usage
LOPID	Gemfibrozil	High cholesterol
LOPRESSOR	Metoprolol	Blood pressure; chest pain
LORELCO	Probucol	High cholesterol
LORTAB	Hydrocodone/ Acetaminophen	Pain
LOTENSIN	Benazepril	Blood pressure
LOTRIMIN *	Clotrimazole	Yeast infection
LOXITANE	Loxapine	Tranquilizer
LOZOL	Indapamide	Diuretic
MAALOX *	Magnesium/ Aluminum	Antacid; Laxative
MACRODANTIN	Nitrofurantoin	Urinary bacterial infection
MARPLAN	Isocarboxazid	Depression
MAVIK	Trandolopril	Blood pressure
MAXAIR	Pirbuterol	Asthma
MAXIVATE	Betamethasone	Inflammation
MAXZIDE	Triamterene/ Hydrochlorothiazide	Blood pressure
MELLARIL	Thioridazine	Tranquilizer
METAMUCIL *	Psyllium	Laxative
METAPREL	Metaproterenol	Asthma
MEVACOR	Lovastatin	High cholesterol
MICARDIS	Telmisartan	Blood pressure
MICRONASE	Glyburide	Diabetes
MIDAMOR	Amiloride	Diuretic
MILK OF MAGNESIA *	Magnesium hydroxide	Antacid
MILTOWN ❖	Meprobamate	Anxiety
MINIPRESS	Prazosin	Blood pressure
MINOCIN	Minocycline	Bacterial infection
MIRAPEX	Pramipexole	Parkinson's disease
MITROLAN	Calcium polycarbophil	Laxative
MOBIC	Meloxicam	Arthritis; Pain

* = Available without a prescription ♦ = Controlled substance

Brand Name	Generic Name	Usage
MONOPRIL	Fosinopril	Blood pressure
MOTRIN *	Ibuprofen	Pain; Arthritis; Inflammation
MYAMBUTOL	Ethambutol	Tuberculosis
MYCELEX	Clotrimazole	Yeast Infection
MYCOSTATIN	Nystatin	Fungal Infection
MYLANTA *	Magnesium/Aluminum/ Simethicone	Indigestion; Antacid
MYLICON *	Simethicone	Stomach gas
MYSOLINE ♦	Primidone	Seizure
NALDECON *	Guaifenesin	Cough
NALFON	Fenoprofen	Pain; Arthritis; Inflammation
NAPROSYN	Naproxen	Pain; Arthritis; Inflammation
NARDIL	Phenelzine	Depression
NASALCORT	Triamcinolone	Asthma; Allergy
NASALCROM *	Cromolyn	Allergy; Asthma
NAVANE	Thiothixene	Tranquilizer
NEOLOID *	Castor Oil	Laxative
NEOSYNEPHRINE *	Oxymetazoline; Phenylephrine	Nasal stuffiness
NEPTAZANE	Methizolamide	Glaucoma
NEURONTIN	Gabapentin	Seizure; Pain
NICODERM; NICORETTE *	Nicotine	Smoking cessation
NITRO-BID; NITRODISC; NITRO-DUR; NITROGARD; NITROLINGUAL SPRAY; NITROSTAT	Nitroglycerin	Chest pain
NIZORAL	Ketoconazole	Fungal infection
NORFLEX	Orphenadrine	Muscle relaxant
NOROXIN	Norfloxacin	Urinary bacterial infection
NORPACE	Disopyramide	Heart rate control

* = Available without a prescription ❖ = Controlled substance

Brand Name	Generic Name	Usage
NORPRAMIN	Desipramine	Depression
NORVASC	Amlodipine	Blood pressure
NUMORPHAN	Oxymorphone	Pain
OCUPRESS	Carteolol	Glaucoma
OCUSERT	Pilocarpine	Glaucoma
OMNIPEN	Ampicillin	Bacterial infection
OPTICROM	Cromolyn	Allergy; Asthma
OPTIMINE	Azatadine	Allergy
OPTIPRANOLOL	Metipranolol	Glaucoma
ORGANIDIN	Iodinated glycerol	Cough
ORINASE	Tolbutamide	Diabetes
OS-CAL 500 *	Calcium carbonate	Antacid; Calcium supplement
P.C.E.	Erythromycin	Bacterial infection
PAMELOR	Nortriptyline	Depression
PARAFLEX; PARAFON FORTE	Chloroxazone	Muscle relaxant
PARLODEL	Bromocriptine	Parkinson's disease
PAXIL	Paroxetine	Depression
PENTIDS	Penicillin G	Bacterial infection
PEN-VEE K	Penicillin V	Bacterial infection
PEPCID (AC *)	Famotidine	Ulcer; Heartburn
PEPTO-BISMOL	Bismuth subsalicylate	Diarrhea
PERCOCET ❖	Oxycodone/ Acetaminophen	Pain
PERCODAN ❖	Oxycodone/ Aspirin	Pain
PERDIEM FIBER *	Psyllium	Laxative
PERMAX	Pergolide	Parkinson's disease
PERSANTINE	Dipyridamole	Stroke prevention
PERTUSSIN ES *	Dextromethorphan	Cough
PHENERGAN	Promethazine	Allergy; Vomiting; Sedative
PILOCAR	Pilocarpine	Glaucoma
PLAVIX	Clopidogrel	Stroke prevention

* = Available without a prescription ♦ = Controlled substance

Brand Name	Generic Name	Usage
PLENDIL	Felodipine	Blood pressure
PRAVACHOL	Pravastatin	High cholesterol
PRECOSE	Acarbose	Diabetes
PREMARIN	Estrogens, conjugated	Estrogen replacement
PREVACID	Lansoprazole	Ulcer; Heartburn
PRILOSEC (OTC *)	Omeprazole	Ulcer; Heartburn
PRINIVIL	Lisinopril	Blood pressure
PRO-BANTHINE	Propantheline	Bowel irritation
PROCAN	Procainamide	Heart rate control
PROCARDIA	Nifedipine	Blood pressure; Chest pain
PROLIXIN	Fluphenazine	Tranquilizer
PRONESTYL	Procainamide	Heart rate control
PROPINE	Dipivefrin	Glaucoma
PROSCAR	Finaasteride	Prostate enlargement
PROSOM ♦	Estazolam	Hypnotic
PROTONIX	Pantoprazole	Heartburn
PROVENTIL	Albuterol	Asthma
PROZAC	Fluoxetine	Depression
PYRIDIUM	Phenazopyridine	Urinary tract pain
PZA	Pyrazinamide	Tuberculosis
QUESTRAN	Cholestyramine	High cholesterol
QUINAGLUTE; QUINIDEX	Quinidine	Heart rate control
REGLAN	Metoclopramide	Vomiting; stomach motility
RELA	Carisoprodol	Muscle relaxant
RELAFEN	Nabumetone	Pain; Arthritis; Inflammation
RELENZA	Zanamivir	Influenza treatment
REMERON	Mirtazapine	Depression
REQUIP	Ropinirole	Parkinson's disease
RESTORIL ♦	Temazepam	Hypnotic
RETIN-A	Tretinoin	Acne
RETROVIR	Zidovudine	Viral Infection

* = Available without a prescription ❖ = Controlled substance

Brand Name	Generic Name	Usage
RIFADIN	Rifampin	Tuberculosis
RISPERDAL	Risperidone	Tranquilizer
RITALIN	Methylphenidate	CNS Stimulant
ROBAXIN	Methocarbamol	Muscle relaxant
ROBITUSSIN *	Guaifenesin/ Dextromethorphan	Cough
ROGAINE	Minoxidil	Male pattern baldness
SECONAL ❖	Secobarbital	Hypnotic
SECTRAL	Acebutolol	Blood pressure
SENOKOT *	Senna concentrate	Laxative
SEPTRA	Sulfamethoxazole/ Trimethoprim	Bacterial infection
SERAX ❖	Oxazepam	Anxiety
SEROQUEL	Quetiapine	Tranquilizer
SERPASIL	Reserpine	Blood pressure
SERZONE	Nefazodone	Depression
SINEMET	Carbidopa/ Levodopa	Parkinson's disease
SINEQUAN	Doxepin	Depression
SLO-BID	Theophylline	Asthma
SLOW-K	Potassium chloride	Potassium supplement
SLOW- PHYLLIN	Theophylline	Asthma
SOMA	Carisoprodol/ Aspirin	Muscle relaxant
SONATA ❖	Zaleplon	Hypnotic
STELAZINE	Trifluoperazine	Tranquilizer
SUDAFED	Pseudoephedrine	Nasal stuffiness
SUPRAX	Cefixime	Bacterial infection
SYLLACT *	Psyllium	Laxative
SYMMETREL	Amantidine	Parkinson's disease
SYNTHROID	Levothyroxine	Thyroid hormone replacement
TAGAMET (HB *)	Cimetidine	Ulcer; Heartburn
TAMIFLU	Oseltamivir	Influenza treatment
TASMAR	Tolcapone	Parkinson's disease

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Brand Name	Generic Name	Usage
TAVIST *	Clemastine	Allergy
TEGOPEN	Cloxacillin	Bacterial infection
TEGRETOL	Carbamazepine	Seizure
TELDRIN *	Chlorpheniramine	Allergy
TENORMIN	Atenolol	Blood pressure; chest pain
TEQUIN	Gatifloxacin	Bacterial infection
TERAZOL	Terconazole	Vaginal fungal infection
TEVETEN	Eprosartan	Blood pressure
THEO-24; THEO-DUR; THEOLAIR	Theophylline	Asthma
THORAZINE	Chlorpromazine	Tranquilizer
TICLID	Ticlopidine	Prevent blood clots
TIGAN	Trimethobenzamide	Vomiting
TILADE	Nedocromil	Allergy; Asthma
TIMOPTIC	Timolol	Glaucoma
TINACTIN *	Tolnaftate	Fungal infection
TOFRANIL	Imipramine	Depression
TOLECTIN	Tolmetin	Inflammation
TOLINASE	Tolazamide	Diabetes
TOPAMAX	Topiramate	Seizure
TORADOL	Ketorolac	Pain; Arthritis; Inflammation
TRANSDERM SCOP	Scopolamine	Motion sickness
TRANSDERM-NITRO	Nitroglycerin	Chest pain
TRANXENE ❖	Clonazepate	Anxiety
TRENTAL	Pentoxifylline	Poor circulation in legs
TRILAFON	Perphenazine	Tranquilizer
TRILEPTAL	Oxcarbazepine	Seizure
TRUSOPT	Dorzolamide	Glaucoma
TUMS *	Calcium carbonate	Antacid; Calcium supplement
TUSSIONEX ❖	Chlorpheniramine/ Hydrocodone	Nasal stuffiness; cough

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Brand Name	Generic Name	Usage
TUSSI-ORGANIDIN ❖	Codeine/ Iodinated Glycerol	Cough; Nasal stuffiness
TYLENOL *	Acetaminophen	Pain; Osteoarthritis
TYZINE *	Tetrahydrozoline	Nasal stuffiness
ULTRAM	Tramadol	Pain
UNIPEN	Nafcillin	Bacterial infection
UNISOM *	Doxylamine	Sedative
UNIVASC	Moexepiril	Blood pressure
URECHOLINE	Bethanechol	Urinary retention
VALISONE	Betamethasone	Inflammation
VALIUM ❖	Diazepam	Anxiety; Muscle relaxant
VANCENASE; VANCERIL	Beclomethasone	Asthma; Allergy
VANTIN	Cefpodoxime	Bacterial infection
VASCOR	Bepridil	Blood pressure; chest pain
VASOTEC	Enalapril	Blood pressure; heart failure
V-CILLIN K; VEETIDS	Penicillin V	Bacterial infection
VELOSEF	Cephadrine	Bacterial infection
VENTOLIN HFA	Albuterol	Asthma
VIAGRA	Sildenafil	Erectile dysfunction
VIBRAMYCIN	Doxycycline	Bacterial infection
VICODIN ❖	Hydrocodone/ Acetaminophen	Pain
VISINE *	Tetrahydrozoline	Eye redness
VISKEN	Pindolol	Blood pressure
VISTARIL	Hydroxyzine	Itching
VIVACTIL	Protriptyline	Depression
VOLTAREN	Diclofenac	Pain; Inflammation; Arthritis
WELLBUTRIN	Bupropion	Depression
WESTCORT	Hydrocortisone	Inflammation
WYGESIC	Propoxyphene/ Acetaminophen	Pain

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Brand Name	Generic Name	Usage
XALATAN	Latanoprost	Glaucoma
XANAX ♦	Alprazolam	Anxiety
ZANTAC *	Ranitidine	Ulcer; Heartburn
ZAROXOLYN	Metolazone	Diuretic
ZESTRIL	Lisinopril	Blood pressure; heart failure
ZITHROMAX	Azithromycin	Bacterial infection
ZOCOR	Simvastatin	High cholesterol
ZOLOFT	Sertraline	Depression
ZYBAN	Bupropion	Smoking cessation
ZYLOPRIM	Allopurinol	Gout
ZYPREXA	Olanzapine	Tranquilizer
ZYRTEC	Cetirizine	Allergy

Adapted from *Reducing Medication Problems in the Elderly*, 2nd edition,
Bradley Williams, editor

IMPORTANT LOCAL NUMBERS

We encourage judicial officers to add local contact names, phone numbers, and email addresses here.

Adult Protective Services: _____

Long Term Care Ombudsman: _____

Medical Services: _____

Mental Health Services: _____

Domestic Violence Shelter: _____

Domestic Violence Hotline: _____

Area Agency on Aging: _____

Victim Services: _____

Public Administrator/Public Guardian: _____

Regional Center/Developmental Disabilities Resources: _____

Center for Independent Living for people with disabilities: _____

National Eldercare Locator (senior services): **1-800-677-1116**

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For more information, visit our websites:



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We welcome your comments.

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