

Legal Terms for Social Workers – Older Adults Edition

BY SHAWNA REEVES, MSW

Attorney - Client Privilege: A legal privilege that ensures communications between an attorney and his or her client are kept private and confidential.

Civil judgment: A document signed by a judge determining that a suing party has been harmed and recognizing that another is responsible for that harm. A copy of the judgment may be delivered to the sheriff with instructions to seize the property of the person against whom the judgment is entered.

Civil Law: Laws governing disputes between individuals and/or organizations. In a civil matter, the victim brings the case. The person found liable in a civil case may have to give back property or pay money to the victim, but he or she will not serve jail or prison time. The intent of bringing a civil case is to make the victim "whole," i.e. help the victim recover from the consequences of his or her loss.

Co-Counsel: An attorney who assists in the representation of a client.

Commercial elder financial abuse: The economic exploitation of elders by sellers of products and services, which often involves issues of capacity to contract, undue influence, and misrepresentation. Tools used to commit commercial elder financial abuse may include advertising, promotions, free-lunch seminars, sales presentations, emails, or phone calls.

Contingent fee: Payment to an attorney based on a percentage of the amount of money recovered; the percentage typically ranges between 33-1/3% and 40%. Contingent fee agreements shift the risk of loss from an unsuccessful lawsuit from the client to the attorney and therefore the fee paid is typically higher than where the fee is based on an hourly rate.

Criminal law: Laws governing criminal acts. In a criminal case, the government brings the case. The person convicted of a crime may be fined, incarcerated, or both. Criminal cases are brought in order to punish the person who committed the wrongful act and to deter others from committing similar wrongful acts.

Damages: Money awarded to compensate for an injury or loss.

Dependent adult: A resident of California who is between the ages of 18 and 64 years and who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights.

Domestic elder financial abuse: The economic exploitation of elders by family members, caregivers, acquaintances, and neighbors that often involves the transfer of an elder's property or an inappropriate bequest obtained through undue influence.

Elder: A resident of California who is 65 years or older.

Elder law attorney: An attorney who specializes in the legal needs of elders. This specialization could include estate planning, wills, trusts, public benefits, advance care planning, physical abuse or financial abuse.

Esquire: A person who has passed the bar examination and, as a result, is permitted to practice law.

Financial abuse: The wrongful taking of property of an elder or dependent adult. In general, a taking of property is wrongful if it is clearly harmful to the elder or was obtained through fraud or undue influence.

If you have any questions about this guide, please contact Shawna Reeves at shawnareevesmsw@gmail.com

In Pro Per: A person who appears in court on his or her own behalf and without a lawyer.

J.D.: Juris Doctor. The degree earned upon completing law school in the United States. Not all J.D.s take the bar exam, so not all J.D.s are licensed attorneys.

Meritorious claim: A legal action that is based on facts likely to result in a civil judgment.

Physical abuse and neglect: Physical or mental harm inflicted on an elder or dependent adult through conduct or neglect including assault, battery, constraint, deprivation, or a variety of other wrongful means.

Pro Bono: Legal work provided for free, often to indigent clients or nonprofit agencies serving marginalized and/or underserved populations.

Senior Legal Services Providers: Nonprofit agencies that provide legal services to low- and moderate-income older adults. Types of cases handled by SLSPs may include restraining orders, preventing the loss of public benefits such as SSI and SSDI, providing eviction or foreclosure defense, or educating consumers about frauds and scams. Due to extremely limited budgets and resources, SLSPs must limit their focus areas and types of cases they accept.

Standing: The right to appear in court and assert a particular legal claim. Not all persons who are harmed by wrongful conduct have standing. For example, a conserved elder who is harmed by physical abuse does not have standing to bring an elder abuse action; rather, the action must be brought by the conservator.

Statute of Limitations: The period of time in which a person must file a lawsuit on a particular claim. When the time begins and ends can be quite difficult to calculate.

Viable Claim: A claim for which the filing of a lawsuit is justified. A meritorious claim is not always a viable claim. For example, an elder may be exploited for \$1,000 and therefore have a meritorious claim for financial abuse. However, the claim may not be viable because the costs of pursuing a lawsuit do not justify the amount likely to be recovered. Similarly, an elder may be exploited for \$100,000 and therefore have a meritorious claim for financial abuse. However, the claim may not be viable because the wrongdoer no longer has any money and the costs of pursuing a lawsuit do not justify the amount likely to be recovered.

SOCIAL WORK TERMS FOR LAWYERS, OLDER ADULTS EDITION

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Activities of Daily Living (ADLs): Personal care activities that people do every day, usually without assistance: eating, bathing, going to the bathroom, walking, transferring (getting in and out of chairs), etc.

APS: Adult Protective Services. County APS agencies take reports of suspected elder and dependant adult abuse. Cases may include physical abuse, financial abuse or exploitation, or self-neglect. The elder must live in the community and not in a nursing home or other long-term care facility. APS investigates the reports and, when necessary, arranges for services, including counseling, advocacy, legal referrals, out-of-home placement, or conservatorship.

Area Agency on Aging: A nationwide network of State and local programs that helps older people plan and care for their needs as they age. Services include information and referral for caregivers, counseling, legal services, respite care, transportation, and senior nutrition. To find the local AAA in your area, visit:

<http://www.n4a.org/about-n4a/?fa=aaa-title-VI>

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B&C: Board and Care Facility. B&Cs are community-based facilities that provide non-medical care for elders and persons with disabilities who require assistance with some ADLs and IADLs. Meals and supervision are provided at a B&C. A B&C may also be an RCFE. B&Cs generally have 4 to 6 beds and are licensed by the Department of Social Services, Community Care Licensing Division.

BSW: Bachelor of Social Work

Care Plan / Treatment Plan: A written statement describing a person's individual needs, created with an eye toward helping that person function in the community, either independently or with support. A care plan is comprehensive and may be created using input from a number of sources: social workers, nurses, physical therapists, attorneys, etc. When possible, a care plan is co-created with the client and outlines what supports are needed and why, when the supports will be provided, and who will provide the supports.

CBAS: Community-Based Adult Services (formerly called Adult Day Health Care) is a Medi-Cal Managed Care benefit for elders and adults with disabilities. CBAS includes individual assessment, nursing services, physical and occupational therapy, social work / mental health services, daily meals, and transportation to and from the client's home to the CBAS center. Eligibility for CBAS is determined by the client's Medi-Cal Managed Care Plan.

FAST: Financial Abuse Specialist Team. A multidisciplinary team formed with the express purpose of identifying, investigating, and responding to financial abuse perpetrated against elders and dependant adults. FASTs may also provide outreach presentations to the general public on how to avoid scams and financial abuse.

Geriatric Care Manager: A specialist who is knowledgeable about the issues facing older adults and caregivers. S/he is focused on helping the client reach his or her full potential, while keeping in mind the safety and security of the client. The geriatric care manager is knowledgeable about local resources and may come from a variety of backgrounds, including nursing, social work, gerontology or psychology, with a specialized focus on aging and elder care issues.

Gerontologist: A specialist in the field of gerontology. May be bachelor's level, master's level, or the graduate of a gerontology certificate program.

Home Care Agency: Home Care Agencies provide care to homebound elders and persons with disabilities. Services provided by HCAs are non-medical in nature and may include personal care, house cleaning, meal preparation, shopping and respite for caregivers. Medicare and Medi-Cal will not reimburse for services provided by HCAs. HCAs are not regulated by the federal government or State of California.

IHSS: In-Home Supportive Services. A program for California residents who are Medi-Cal eligible and 65+, disabled, or blind that pays for in-home care services such as bathing, personal care, house cleaning, meal preparation, and shopping. The goal of IHSS is to keep elders and persons with disabilities safe and secure in their own homes.

Information and Referral: A service, usually phone- or web-based, designed to help people find resources and supports in their local communities. May include United Way 211, Area Agency on Aging, legal referral services, etc.

Instrumental Activities of Daily Living (IADLs): Things that people do every day that are unrelated to personal care: cooking, shopping, driving, money management, cleaning, doing laundry, taking medication, etc.
Concrete Services: Tangible resources required to solve specific problems or attain a reasonable standard of living, such as food, transportation, housing, and clothing.

LCSW: Licensed Clinical Social Worker

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Long-Term Care Ombudsman: Investigates elder abuse complaints in long-term care facilities and residential care facilities for the elderly (RCFEs).

MDT: Multidisciplinary Team. A team comprised of professionals from a variety of backgrounds who come together to review cases, get advice, address problems, and resolve difficult issues.

MOW: Meals on Wheels. MOW provides meals to homebound elders and persons with disabilities. Most recipients of MOW are low-income, isolated, and at high nutritional risk. MOW drivers may also perform daily wellness checks, and some MOW programs will link clients to community resources and supports.

MSSP: Multipurpose Senior Services Program. MSSP is a Medi-Cal waiver program that provides social work and health care management for frail elders living in the community who, without the supports provided by MSSP, would be placed in a nursing home.

MSW: Master of Social Work

Paratransit: Required under the Americans with Disabilities Act, paratransit is transportation available to persons with disabilities who, due to their functional limitations, cannot use fixed route bus or rail service. Paratransit service must be provided to those who live within 3/4 of a mile of a fixed route transit system.

Home Health Agency: Home Health Agencies provide in-home nursing care and/or rehabilitation therapy to elders and persons with disabilities. Medicare or Medi-Cal may reimburse for short-term services provided by HHAs.

Psychosocial Supports: Interventions supporting the client which may include mental health counseling, education, group support, or peer counseling.

ROA: Report of Abuse. Term used by Adult Protective referring to reports made to their office.

RCFE: Residential Care Facility for the Elderly. Sometimes referred to as "assisted living," RCFEs provide non-medical care in a residential setting to elders who are 60 years and older. Staff may assist elders with ADLs and IADLs at an RCFE, but they will not provide medical care. Medicare and Medi-Cal will not pay for an elder's stay at an RCFE. RCFEs are licensed by the Department of Social Services, Community Care Licensing Division. For more information on RCFEs: http://www.canhr.org/factsheets/rcfe_fs/html/rcfe_needtoknow_fs.htm

SNF: Skilled Nursing Facility. A facility that provides long-term skilled nursing care and rehabilitation for elders and persons with chronic health conditions. A SNF stay may be paid for privately, reimbursed by Medicare, or paid using Medi-Cal dollars. SNFs are licensed by the California Department of Public Health. For more information on SNFs: http://www.canhr.org/factsheets/nh_fs/html/fs_WhatisaNH.htm