

Legal Basics: Self Neglect

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Introduction

The Department of Health and Human Services defines self-neglect as the behavior of an older adult that threatens their own health or safety and generally manifests itself by failure to provide themselves with adequate food, water, clothing, shelter, personal hygiene, medication (when indicated), and safety precautions.¹ Researchers and clinicians have defined self-neglect using a variety of criteria, generally looking at physical, mental, environmental, and financial neglect.²

This Chapter Summary is an introduction to understanding self-neglect, and is intended to help aging network professionals learn signs of self-neglect and potential legal and social services interventions to help.

Key Issues:

1. Self-neglect is a failure of a person to meet personal needs such as food, shelter, clothing, and medical care.
2. The first line of help for self-neglect is social service based.
3. Lawyers should be part of the team to address legal challenges, while social services coordinates the human and personal services.

Identifying Signs of Self-Neglect:

Unlike other forms of elder abuse, self-neglect signs may be subtle and require more awareness. While self-neglect may be difficult to detect, it is still prevalent. According to a recent survey of geriatric care managers, self-neglect is the most common non-financial form of elder abuse they encounter in their practice.³ The report cites six of the main warning signs of self-neglect:

1. Poor personal hygiene;
2. Poor medication management or medication refusal;
3. Signs of dehydration, malnutrition, or other unattended health conditions;
4. Unsanitary or very unclean living quarters;
5. Signs of unpaid bills, bounced checks, or utility shut-offs; and
6. Lack of adequate food in the house or signs of weight loss.

¹ Department of Health and Human Services, Identifying Elder Abuse, available at: hhs.gov/answers/programs-for-families-and-children/how-can-i-recognize-elder-abuse/index.html.

² “Elder Self-Neglect: Research and Practice,” XinQi Dong, Rush University for Health Aging, Clinical Interventions in Aging, June 2017.

³ “Elder Self-Neglect is a Growing and Largely Hidden Problem,” Karen Boothroyd, National Association of Professional Geriatric Care Managers, available at: asaging.org/blog/elder-self-neglect-growing-and-largely-hidden-problem.

How Lawyers Can Help with Self-Neglect

Self-neglect based on economic or physical inability

Self-neglect may be the result of economic need or a physical inability to meet personal needs. If an unmet need is caused by economic need, lawyers can assist the client in obtaining benefits and assistance. The lawyer can help the client by conducting an assessment of available benefits and entitlement programs⁴ such as Social Security, Supplemental Security Income (SSI), Supplemental Nutrition Assistance Program (SNAP), Medicaid, utility assistance, and housing assistance.⁵

If the unmet needs are caused by a physical inability, the lawyer can help the client connect with the local Area Agency on Aging or a geriatric care manager to help the client access supportive services available in the community.⁶ Family, neighbors, and friends may be able to collaborate to help the person live a higher quality and safer life.

Honoring the dignity of the person and dignity of choice

When a lawyer is concerned about a client's self-neglect, it is important to remember the fundamental premise of choice to be accepted and effective with the client. The lawyer's assistance is best received when offered in a person-centered and person-directed way that preserves the dignity of the person and dignity of choice.

The role of lawyers in self-neglect cases

Helping an older adult with economic or physical challenges often requires additional legal assistance. A lawyer can help an individual with self-neglect receive public benefits by helping the person:

- Overcome barriers to obtaining identification.
- Clarify ownership of assets.
- Resolve issues caused by financial exploitation, either by the return of assets, or, if that is not possible, establishing hardship eligibility.
- Resolve unsettled family law matters.

Once an individual receives benefits, a lawyer may be needed to help the individual appeal denials of benefit applications.

In addition to assistance with benefits, the lawyer can help the individual explore decision supports. As part of this process, the lawyer can help the individual legally empower a supporter to assist with decision-making. A lawyer may also defend the person, if needed, in a guardianship action and advocate for the least restrictive alternative.

Self-neglect and capacity

Helping a person who lacks the ability to understand the risks they face is complex. If the older adult has completed advance planning, it is helpful to start there. The lawyer can look to the named agents in a power of attorney or advance health care directive. If the person is willing to accept help, social services interventions

⁴ See National Council on Aging (NCOA) Benefits Checkup for assistance with an economic need assessment: benefitscheckup.org.

⁵ For more information on assisting clients with health and economic security benefits, see NCLER's National Legal Training Curriculum, available here: ncler.acl.gov/Legal-Training.aspx.

⁶ See Eldercare Locator for more information: eldercare.acl.gov.

are able to help. If the person declines help and fails to understand the risks, legal interventions should be considered if the neglect presents an imminent threat to the health and safety of the person or others. Lawyers should consult rule 1.14 of the Model Rules of Professional Conduct for guidance before pursuing legal remedies.⁷

Adult Protective Services and reporting obligations

It is always helpful for lawyers to develop a working relationship with the local adult protective services (APS) program. Often APS has access to emergency shelter, food, personal care, medical supplies, medication, utility assistance, furniture, and transportation services that can be essential to helping with self-neglect. Many APS programs have trained social workers who are essential team members in effective harm reduction.⁸ It is also always helpful for lawyers to understand their state's abuse reporting laws and obligations under those laws.⁹

Additional Resources

This Chapter Summary is intended as an introduction to the issues with self-neglect to help lawyers working with clients facing self-neglect issues. There are several resources that provide more information on the issue of self-neglect and research on how to help older adult:

- Government Agencies:
 - » Washington State Department of Social and Human Services: [Self-Neglect](#)
 - » Department of Health and Human Services: [Identifying Elder Abuse](#)
- Articles and Research:
 - » Karen Boothroyd, American Society on Aging Blog: [Self-Neglect is a Growing and Largely Hidden Problem](#)
 - » Sarah Nicolay, Farida Ejaz, PhD, Courtney Reynolds & Jessica Bibbo, Benjamin Rose Institute: [Protecting a Loved One from Self-Neglect](#).
 - » David Godfrey and Charlie Sabatino, National Center on Law and Elder Rights: [Understanding Legal Capacity and Ethics](#)
 - » David Godfrey, National Center on Law and Elder Rights: [Mandatory and Permissive Reporting for Lawyers](#)

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at ConsultNCLER@acl.hhs.gov.

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⁷ David Godfrey and Charlie Sabatino, "Understanding Legal Capacity and Ethics," National Center on Law and Elder Rights, available at: ncler.acl.gov/pdf/Capacity%20Ethics%20Practice%20Guide.pdf.

⁸ National Adult Protective Services Organization, "Get Help in Your Area," available at: napsa-now.org/get-help/help-in-your-area.

⁹ David Godfrey, "Mandatory and Permissive Reporting for Lawyers," National Center on Law and Elder Rights, available at: ncler.acl.gov/getattachment/Legal-Training/Mandatory-Reporting-Ch-Summary.pdf.aspx.