

Elder Protection



An Update from
Attorney General
Tom Reilly

Dear Friend,

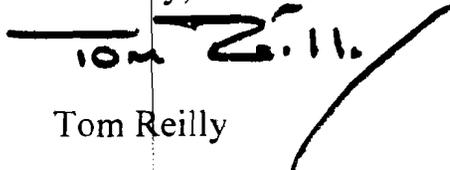
Nearly one in every eight Americans today is age 65 or older. Given that figure, it is no small wonder that our seniors are on the front lines of some of the foremost challenges we face: health care, consumer protection and domestic violence.

It is my priority, as it has been throughout my career, to be a voice and an advocate for those in this state who are unable to do so for themselves. The protection of our seniors, as well as the investigation and prosecution of crimes against them, requires a comprehensive and extensive approach. To that end, my Office has created the Attorney General's Elder Protection Unit. This unit will enable us to coordinate our efforts with others in the community and collectively address critical issues such as crime prevention, health care and financial exploitation.

To aid in the fight against elder abuse and mistreatment, I have filed legislation that would require all acts of elder abuse - no matter who the perpetrators may be - to be reported to the Attorney General's Office. In addition, my Medicaid Fraud Protection Unit is charged with the responsibility of investigating and prosecuting elder abuse and exploitation by caregivers. As the state's chief law enforcement officer, I am committed to putting an end to such offenses.

The Attorney General's Office will not give up on this important mission. I intend to strengthen our crusade to protect seniors and bring an end to the violence, fraud and abuse too many are forced to endure. Working together, we can ensure the safety and basic human dignity seniors have earned and rightly deserve.

Sincerely,


Tom Reilly

GOVERNMENT DOCUMENTS
COLLECTION

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New Long-Term Care Insurance Regulations

Major changes to the state's regulation of long-term care insurance will go into effect on January 1, 2000.

The new regulation allows more flexibility in the benefits that long-term care policies must offer and requires insurance companies and their agents to provide better disclosure about what coverage is and is not included in a policy. Consumers should be able to choose from among policies that offer a wider range of benefit options and premiums than before. This means, however, that *it is especially important for consumers to study their options and get whatever information they need to make an educated choice about whether they should buy long-term care insurance at all and, if so, what type of coverage they need.*

Another important change in the regulations is that the Division of Medical Assistance, which runs the state's MassHealth (Medicaid) Program, will now set the standards that determine which long-term care policies make a policyholder eligible for exemptions from certain MassHealth eligibility and estate recovery requirements, including the so-called "Medicaid lien" rule. To qualify for the MassHealth exemptions, policies issued after March 15, 1999 must provide at least \$125 per day of nursing home benefits and must offer at least 2 years of coverage.

While long-term care insurance can provide valuable protection against the enormous costs of long-term care, it is not for everyone. The Attorney General's Office always recommends that consumers who are thinking about buying long-term care insurance consult with a qualified, independent advisor (an expert in estate planning issues who does not sell the insurance) who can evaluate their particular circumstances and provide unbiased advice.

Metlife Settlement

The Metropolitan Life Insurance Company has reached a proposed class-action settlement to resolve complaints of improper sales practices. Consumers who purchased a whole life policy or an annuity between January 1, 1982 and December 31, 1997, are eligible to participate in the settlement. Consumers may file a claim at no cost to them, and doing so will not adversely affect any existing policy.

If you believe you have a policy or annuity purchased during this time, but did not receive a Metlife legal notice, please contact the Attorney General's MetLife Class Action hotline at 1-800-994-3228.

If you received the Metlife mailing and want to file a claim, you should return the pink-colored election form included in the legal notice mailing. While the deadline to submit this form was November 2, you should still submit it if you want to file a claim. However, you will also need to send a letter explaining your delay in submitting the form.

For more information, please contact Attorney General Reilly's MetLife hotline, Monday through Saturday, at 1-800-994-3228.

ATTORNEY GENERAL REILLY LAUNCHES THE ELDER PROTECTION UNIT

Attorney General Reilly announced on November 8, 1999, the creation of an Elder Protection Unit within the Public Protection Bureau of his Office. This new division seeks to enhance protections for Massachusetts elders by improving the coordination of the office's proactive efforts as well as response to matters involving elder abuse and fraud. The goal of the Elder Protection Unit is to work towards preventing exploitation and abuse in the first place by training police officers, protective services workers, community advocates and other professionals to work together to recognize, address and prevent cases of elder abuse.

"The aging of our population presents us with new challenges and opportunities to help elders who may be vulnerable to emotional abuse, neglect, domestic violence, and fraud by telemarketers, financial professionals and other scam artists," said Attorney General Reilly. "However, we in the criminal justice system can't do it alone; we must have a comprehensive approach that includes government, elder advocates and the private sector."

The Elder Protection Unit will establish an Elder Protection Advisory Group of private industry representatives, state and federal government agencies, elder advocacy groups and seniors. The Unit will also create an office-wide working group of representatives from each division in the Attorney General's office that is involved in elder protection issues. Additionally, the Unit will develop partnerships with the Massachusetts Extended Care Federation, the American Association of Retired Persons, American Express Financial Advisors and other organizations to not only raise the profile of elder protection issues, but also draft legislation to fight consumer fraud and crimes against the elderly.

"In some cases, these issues are a matter of life or death," said Attorney General Reilly. "We won't give up until the rights of senior citizens are taken more seriously."

ELDER PROTECTION UNIT Collaborates with AMERICAN EXPRESS

*Partnership results in the production
of a guide for elder health care and
finances*

The Attorney General's Elder Protection Unit is collaborating with American Express Financial Advisors to create Protecting Your Future: The Attorney General's Guide to Elder Health Care and Finances, a comprehensive guide to help senior citizens and their families know where to turn for assistance with planning future health care and financial needs. The guide will be published as a public service to the elder community, those concerned with retirement and health care issues and those who assist and interact with elders in their daily lives. Protecting Your Future will help elders identify and resolve issues that affect them by offering ways to deal with these issues and, when appropriate, recommend the advice of relevant professionals. Watch this newsletter for more details on when the Guide will be available.

In addition to the guide, the Attorney General's Office and the Massachusetts Association of Councils on Aging will co-sponsor a series of training seminars for seniors across the state in partnership with American Express Financial Advisors through a program known as "Advice+." The trainings will focus on preventing fraud and abuse and identifying actions that can be taken by the law enforcement community and elder advocates to protect senior citizens. By exchanging ideas and coordinating efforts, Advice+ will work to strengthen the Attorney General's current initiatives to protect older Americans and begin to end the violence, fraud and abuse which so many elders endure.

THE HOLIDAYS: 'TIS THE SEASON FOR SMART GIVING

Charitable giving is a great way to help others, but consumers should be careful before agreeing to make any donation.

If contacted by a fund-raiser, ask him or her to detail how the money will be used. Also, if you are contacted by phone, ask that the information be sent to you for review. Then decide if and how much you will donate. Remember, the decision to give is **yours alone**.

- ❖ Don't be pressured to give;
- ❖ Take time to get all the information you require;
- ❖ Never pay cash;
- ❖ Never give out a credit card number unless you are very familiar with the organization;
- ❖ Make sure the charity is the one you think it is and not one with a similar name;
- ❖ Ask if you are being solicited by volunteers or paid fundraisers;
- ❖ Ask for a description of services. What portion of the donation will benefit those services?

For questions about charitable solicitations you receive, call the Attorney General's Public Charities Division at 617-727-2200, or in the Springfield area call 413-784-1240.

AG REILLY, MASS BANKERS LAUNCH Y2K SCAM PREVENTION INITIATIVE

At a press conference last month Attorney General Tom Reilly launched a joint education initiative with the Massachusetts Bankers Association (MBA) to inform consumers about potential Y2K scams as 1999 draws to a close. Joining Attorney General Reilly and James McDonough, Chairman of the MBA, were representatives of the Federal Reserve Bank of Boston, the FDIC, the Executive Office of Elder Affairs, the Massachusetts Division of Banks, and the Executive Office of Consumer Affairs and Business Regulation.

AG Reilly discussed some of the Y2K scams that have been reported to date and warned consumers to watch out for these ploys as January 1, 2000 approaches. Federal and State regulators have reported that 100% of the banks and credit unions in Massachusetts are prepared for the Year 2000 date changeover. Still, some consumers are concerned that there may be problems with computer systems when the Year 2000 arrives. According to AG Reilly, con artists always try to use fears, whether reasonable or not, to get consumers to give out their credit card number or bank account number. "Any time there is change and uncertainty, con men will try to use your fears to their advantage," Reilly said. He added, "If you have concerns about your money, call your bank and ask them how they have prepared for the date change. Call your credit card company and ask them what they have done. Get answers to your questions rather than letting criminals play on your fears."

The press conference featured an appearance by South Boston resident Janet Hutchison, who received a Y2K scam call this past summer. The caller said he was from her bank and that he needed her credit card number in order to send her a special decal that will make her card work after January 1, 2000. Ms. Hutchison refused to give over the

information, hung up the phone, and immediately called her bank to check the caller out.

She learned that no one from her bank would call and ask for her financial information over the phone. "A bank would never call you and ask you for that information, not in a million years," MBA Chairman McDonough said.

THE GOLDEN RULE OF FRAUD PREVENTION

*Never Give
Out Your:*

- * CREDIT
CARD
NUMBER
- * BANK
ACCOUNT
NUMBER
- * SOCIAL
SECURITY
NUMBER

*...or any
other personal
information over
the phone or
online unless you
are familiar with
the business and
have initiated
the contact.*

Continued, next page...

Another scam call that has been reported involves a caller posing as a bank employee who says that with the date change coming they have to move your money into a special "bonded" account in order to prepare their computers, and asking for your account number to verify your account.

AG Reilly told those in attendance to "do what Janet Hutchison did" if someone contacts you and tries to use a Y2K pitch to get your credit card number, bank account number, or other private information. The Attorney General and the MBA introduced written brochures to help get the word out to consumers that Y2K scams are out there and are to be avoided. Anyone receiving a suspicious Y2K solicitation should report it to the Attorney General's Consumer Hotline, 617-727-8400.

Elder Abuse Legislation

This fall, Attorney General Reilly filed legislation that would amend the Protective Services Statute to allow the Executive Office of Elder Affairs (EOEA) to report substantiated allegations of serious abuse to the Attorney General's Office. Currently, EOEA reports such allegations to local district attorneys but not the Attorney General.

The legislation would require the Executive Office to give mandated reports of abuse to the Office of the Attorney General. The Attorney General has numerous resources at its disposal that would help to more quickly investigate and resolve many cases of elder abuse.

Watch Out For:

Anyone claiming to be a bank officer who tells you that as your bank prepares for the Y2K date change, your account balances must be transferred to a "special Y2K bond fund."

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Anyone claiming to be bank examiner or officer who calls supposedly to confirm that your accounts are Y2K compliant and asks for your account number, PIN number or other personal information.

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Anyone claiming to represent a credit card issuer who calls to say that your card will not work after January 1, 2000 without a special magnetic strip and that to receive this strip, you must confirm the card number and supply your social security number and mother's maiden name.



FIGHTING MEDICAID FRAUD AND ELDER ABUSE

Investigating and prosecuting those who commit crimes against the elderly is a top priority for the Attorney General's Office. As part of this priority, Attorney General Reilly has entrusted his Medicaid Fraud Control Unit with the prosecution of caretakers that abuse, neglect, mistreat or financially exploit patients residing in the Commonwealth's long-term care facilities.

The Medicaid Fraud Control Unit (MFCU) investigates complaints of abuse, mistreatment, neglect and financial exploitation. The Attorney General receives approximately 600 referrals

per year from various sources, such as the Department of Public Health, the Elder Ombudsman Office, family members, employees, and other protective agencies.

The Unit's Patient Abuse Team meets regularly with the Department of Public Health to discuss enforcement initiatives for the state's most troubled nursing homes. The team also meets with the nursing home industry to provide training seminars for nursing home employees.

The following cases profile some of the recent accomplishments of Attorney General Reilly's Medicaid Fraud Control Unit in elder abuse and financial exploitation prosecutions.

Salisbury Nursing Home Settles Patient Trust Fund Case With Attorney General

Attorney General Reilly's office has reached a civil settlement agreement with a Salisbury nursing home to remedy problems with the facility's bank account for the residents' personal needs allowance money. As a result, the corporation and its president paid a total of \$21,600 in restitution, fines, and costs of investigation.

The Attorney General's investigation uncovered several occasions in which the corporation's President used funds from the residents' bank account to meet business expenses for the facility. His transactions amounted to interest-free loans. As part of the settlement the President was required to deposit all of that money back into the account.

The settlement further imposed civil penalties, administrative fines and costs of investigation on the corporation and its president totaling \$7,500 and additionally includes a compliance component to insure proper administration of the account in the future. Per the agreement, the president must bear the expense for conducting quarterly audits of the account by a certified public accountant. The audits must be performed for the next three years.

Former Nursing Home Aide Sentenced to 4 To 5 Year Prison Term for Abusing Elderly Patients

A 26-year-old former nurses aide from Derry, New Hampshire was sentenced to four to five years in state prison for abusing five elderly residents at a Wilmington nursing home.

The defendant was convicted on seven counts of patient abuse and two counts of felony elder abuse. The defendant physically and mentally mistreated patients under her care in the special Alzheimer's Unit of a Wilmington nursing home.

At the time of the incidents, the defendant was a certified nurses aide hired by the facility to help with the personal care of incapacitated patients, such as feeding, bathing, dressing and toileting.

Witnesses testified that the defendant assaulted five elderly residents, all of whom were over 80 years of age, on seven different occasions over a five month period. The charges of felony elder abuse involved an incident in which another employee witnessed the defendant forcing an 83-year-old patient to eat her own feces and a second incident in which the defendant was seen kicking and stomping on an 81-year-old resident. The defendant also slapped this patient in the head and kicked her in the shins. In another instance of abuse, the defendant pushed this same patient out of her wheelchair, grabbed her arms and dragged her to her bedroom.

Other incidents of abuse included the defendant spitting into the face of a 92-year-old patient, pulling the hair of an 86-

year-old patient, and assaulting an 87-year-old resident. The victims all suffer from severe medical conditions, including Alzheimer's Disease and senile dementia.

"Not only was this the most disturbing example of elder abuse ever encountered by my office, national experts tell us it is the most egregious incident they have seen anywhere in the country," said Attorney General Reilly. "This sentence sends a clear message that abuse of the elderly will not be tolerated in any form. Residents at elderly care facilities in Massachusetts deserve to be treated with respect and dignity. Anyone who violates that trust will be prosecuted to the fullest extent of the law."

"Not only was this the most disturbing example of elder abuse ever encountered by my office, national experts tell us it is the most egregious incident they have seen anywhere in the country."

AG Tom Reilly

Jamaica Plain Home Pays More than
\$194,000 to Settle Medicaid Fraud Case

A Jamaica Plain nursing home and its director have reached an agreement to settle a suit brought by Attorney General Reilly's office alleging that the facility overcharged the state's Medicaid program, rewrote patient records and misrepresented the level of care provided to patients.

Under the agreement, the nursing facility will return a \$194,000 in restitution to the state's Medicaid program.

The complaint alleged that Wetterberg Nursing Homes, Inc., the company's Director of Nurses and Corporate Director, misrepresented the level of care they provided to their patients and, as a result, were reimbursed at a higher Medicaid rate.

Medicaid pays nursing homes a daily rate for patients based upon the amount of care each patient receives. Medicaid rates are based on a point system which assigns points for each task associated with patient care, based on both the frequency and type of care received. The facility's nurses and aides were required by law to keep records of the types of care provided to patients and the points associated with that care.

The Attorney General's complaint alleged that the Director of Nursing and the facility's employees, at the Director's instruction, rewrote patients' records and misrepresented the amount of care some received in order to increase the points awarded. Under this scheme, the facility allegedly received a higher rate of reimbursement from Medicaid than it deserved.

In addition to agreeing to pay \$194,100, the company and the Director of Nursing agreed to comply with all Medicaid rules and regulations and to maintain complete and accurate records on services rendered.

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Dorchester Woman
Convicted Of
Patient Abuse,
Assault and Battery

A former nurses aide from Dorchester was convicted for committing patient abuse and assault and battery on a nursing home patient.

The defendant was sentenced to a 60 day suspended sentence with one year probation. As a condition of probation, the defendant must undergo anger management counseling and is prohibited from working in a nursing facility.

The defendant was employed as a certified nurses aide at a Wellesley nursing home when she slapped and kicked a 92-year-old patient under her care. While assisting the victim into bed one night, the defendant forcefully slapped and kicked the elderly man while also swearing at him. The defendant used such force to kick the patient that she lost her balance.

Security Guard Pleads Guilty To Assaulting Patient

A former nursing home security guard pleaded guilty to assault and battery on an elderly person. The former security guard admitted to forcefully shoving a 77-year-old nursing home resident to the concrete pavement. The resident suffered a fractured left hip and a laceration to his forehead requiring stitches.

The resident was smoking in a designated smoking area during unauthorized hours when the security guard allegedly told him to put out his cigarette. When the resident put the cigarette to his lips, the guard grabbed it from his hands and crushed it out on the ground. As a result, the resident became agitated and the security guard grabbed his wrists, swung at him and subsequently forced him to the ground.

The security guard was sentenced to one year probation, with the condition that she is evaluated by the Department of Probation and undergo anger management counseling. The defendant served 35 days in jail after she was arraigned as a result of this matter.

Lynn Man Admits To Patient Abuse and Assault and Battery

A former nursing home employee admitted to forcefully shoving a 45-year-old nursing home patient at a Lynn facility. The defendant was hired to help re-direct and, as needed, restrain agitated patients.

The patient, who has problems communicating due to a brain injury and a history of drug abuse, is known to play a game of "hide and seek." In this game, he escapes from the patient floor and "hides" in the activity room one floor below.

The patient engaged in his hide and seek game leading the defendant and another staff member to search for him. When the defendant found the patient he forcefully grabbed him by the arm and flipped him to the floor. The defendant was fired following the facility's investigation of this incident.

The Judge placed the defendant on supervised probation for one year. As a condition of probation, the defendant will undergo evaluation and treatment at the direction of the Department of Probation and attend anger management counseling.

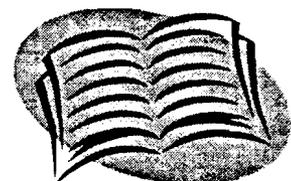
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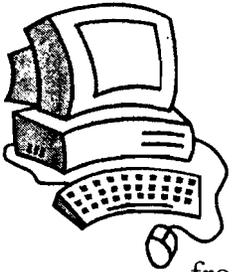
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IS IT SAFE TO SHOP ON-LINE?



A Few Tips From Attorney General Tom Reilly

The Internet provides a convenient way to shop for everything from groceries to holiday gifts to electronics to cars -- all from your own home. Consumers of all ages are shopping on the Internet in numbers that go up dramatically nearly every day. But many wonder--- is it safe to shop on-line? Is it safe to provide my credit card number and other information via the Internet? Generally, the answer is yes, but consumers must exercise the same common sense when shopping on-line as they do when they do their "traditional" shopping to avoid getting ripped off.

Here are some important tips to protect yourself when shopping on-line:

Make sure you check the website's policies on returns, refunds, and security.

Ask yourself:

- * **What if I want to return or exchange the item I purchased?**
- * **What do they do with the information I provide them?**
- * **Is it safe to give this business my credit card number?**

The answers to these questions should be easy to find on any legitimate retailer's site----if they are not, you may want to do your shopping elsewhere.

- * Go with businesses you know and trust. If you do want to use a new company, **check them out thoroughly.** You should think twice if they do not have a customer service phone number and a regular mailing address.
- * Keep records of your on-line purchases. Take the opportunity to print out a record of the purchase. Having a printed record of the purchase will be very helpful should any problems arise.
- * As with all credit card purchases, regularly review your credit card statements to make sure that no suspicious charges appear. If you do see a charge that you did not authorize, immediately notify the merchant and your credit card company. Under federal law, you are only responsible for up to \$50 of any fraudulent charge, but you must report any such charges quickly to your credit card company to be covered by the law.

Finally, if you do run into problems with a retailer over the Internet, call the Attorney General's Consumer Complaint Line at 617-727-8400.

AG ELDER HOTLINE IS A TOLL-FREE RESOURCE

The Attorney General's Office has a statewide, toll-free telephone hotline to assist individuals on a wide range of elder issues.

The Elder Hotline is available Monday through Friday, from 10:00 a.m. - 5:00 p.m. The hotline provides a valuable service to Massachusetts' seniors, their families and others seeking information about elder-related issues and programs.

The Elder Hotline receives approximately 500 calls every month. Callers' requests vary from information sought on insurance, health and long-term care matters to help with faulty purchases, questionable sweepstakes and lotteries, and deceptive contractors.

Recently, A Rehoboth elder reported that a pair of eyeglasses he ordered had to be sent back to the company for a special coating and that he had been waiting - without glasses - for several weeks for their return. A Hotline volunteer called the store and a salesperson explained that although the prescription would not be ready for a week, they would provide the customer with the "non-coated" pair for his use until the new pair arrived.



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