

Preventing Elder Investment Fraud: Assessing for Vulnerability to Financial Exploitation

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Nov. 14, 2011



Acknowledgements of Project Team...

- Bob Roush, EdD, MPH, Principal Investigator
- Aanand Naik, MD, Co-PI
- George Taffet, MD, Chair, Internal Advisory Group
- Larry McCullough, PhD, Member, IAG
- Nancy Wilson, LMSW, Member, IAG
- Mark Kunik, MD, Member, IAG
- Whitney Mills, PhD, Assistant Project Director
- Elisa Rodriguez and Kristin Cassidy, Former Assistant Project Directors
- Jennifer Moye, PhD, Elder Capacity Assessment Consultant
- Janet Pinner, RN, PGCM, Nursing Continuing Education
- Wayne Howell, JD, Investor Education Consultant
- The physicians, nurses, social workers and investor educators in focus groups whose opinions and suggestions guided our efforts



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Special Thanks To ...

- Department of Family and Geriatric Medicine, Division of Geriatrics, University of Louisville, Louisville, KY
- KY Department of Financial Institutions, Securities Division, Frankfort, KY
- The Investor Protection Trust for funding and for the educational materials

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Disclosures

- The presenters disclose that they received funding from the non-profit Investor Protection Trust.
- Neither speaker has any financial relationships that are relevant to the content of this presentation.
- Development of the Clinician Pocket Guide was made solely by members of the Baylor College of Medicine project group.

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Registration

- Please fill out your Registration Form
- Participant profile information helps us secure continued funding.

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Goals

- Raise clinical awareness of elder investment fraud and financial exploitation (EIFFE)
- Provide information and resources that can help you address the problem

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Elder Abuse And Neglect

Dr. James G. O'Brien, M.D., F.R.C.P.I.

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Elder Abuse And Neglect

- Problem since antiquity
- Tribal
- King Lear
- *Court cases 18th and 19th centuries*
- Sermons
- Waltons



Definition

“The willful infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish or deprivation by a caregiver of goods or services that are necessary to avoid physical harm, mental anguish or mental illness.”

A.O.A. 1983

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Types Of Elder Mistreatment

- Physical Abuse
- Psychological
- Sexual Abuse
- Exploitation/Financial
- Neglect
- Self-Neglect

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Epilemiology

Prevalence

1-2 Million Victims	U.S. Congress 1991
32/1000 (3-2%)	
1 in 14 Reported	Pillemer 1998
1 in 24 Reported	Senate Commission on Aging 2010
3-5%	Podnieks (Canada 1992) OGG (U.K. 1992) COMIJS (Netherlands 1998)
2 – 10%	Lauman 2008

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Who Are The Abusers?

More than 2/3rds of the abusers are family members of the victims and are typically serving in the care-giving role.

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Selected Aging Demographics

- 1.2 billion older people worldwide in the year 2025
- Net increase of one million people 60 years of age worldwide monthly now;
- Leading edge of 77 million U.S. Baby Boomers reach age 65 in 2011
- 10,000 persons qualify for Medicare every day for the next 19 years!

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EIFFE Can Happen To Anyone...



"To those seniors and especially elderly veterans like myself, I want to tell you this: You are not alone and you have nothing to be ashamed of. If elder abuse happened to me, it can happen to anyone."

Mickey Rooney
Testimony to Senate Special Committee on Aging
March 2, 2011

Raising Awareness

- Almost a third of elders live within 150% of the poverty level
- Average savings of 50 year old boomers is about \$50K

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Raising Awareness

- Of all elder abuse cases reported 30% were for financial exploitation (National Elder Abuse Study, 1998)
- Two nationally representative studies found 4-5% of older adults in the US have been victims of financial abuse (Acierno et al., 2010; Laumann et al., 2008)
 - similar prevalence to heart attacks and higher than that of congestive heart failure (1-2%)

http://www.americanheart.org/downloadable/heart/1200078608862HS_Stats%202008.final.pdf

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What can you do to help prevent EIFFE?

- Simple office-based assessments of potential vulnerability to EIFFE
 - checklist of situations associated with high risk
 - assessment questions
 - referral sources for those deemed potentially at high risk
 - recent paper on office-based assessments by E. Widera et al. *JAMA*, Feb. 16, 2011

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Important Areas for EIFFE

- Vulnerability [risk] factors
- Financial capacity issues
- Investment and financial knowledge
- Undue influence of others

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Financial Capacity

- “The ability to make and execute decisions consistent with personal preferences and values regarding finances.”

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Marson, D et al: *Encyclopedia of Psychology and the Law*. 2008

Investment Fraud and Financial Exploitation

- “The illegal or improper use of another individual’s resources for personal profit or gain.”

Adult Protective Services: http://www.ncea.aoa.gov/NCEARoot/Main_Site/FAQ/Basics/Types_Of_Abuse.pptx

Case Scenario

- A 79-year-old man allows his financial advisor to purchase an equity-indexed annuity* in the hopes that this will provide him economic security should he live to 85 and not have the same level of resources he presently has. The advisor does not disclose the “shrouded” information that the annuity doesn’t begin until age 90 nor the high percentage surrender fee should the gentleman decide to change his mind. (Is this fraud?)

*Sold by insurance agents regulated by KY Department of Insurance
<http://insurance.ky.gov> 800-595-6053

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Common EIFFE Schemes by Responsible Party (1)

- Caregivers or family members
 - use older adult’s personal materials for own gain, such as: retirement funds, social security checks, etc.

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Common EIFFE Schemes by Responsible Party (2)

- Trusted financial advisors
 - sells inappropriate annuities or front-end loaded mutual funds, then churns them to generate inordinately high fees that can result in decumulation of assets

- Strangers
 - scams by phone, email, or mail

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Responsible Party Characteristics

- Traits
 - caregiver
 - male, usually relative
 - living with the patient
 - economically dependent on the patient
 - history of mental illness, including substance abuse and antisocial behavior or other health problems

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Tueth, M (*Am J Geriatr Psychiatry* 8:2, Spring 2000)

A Clinician's Pocket Guide

Pocket Guide on Elder Investment Fraud and Financial Exploitation

Should I be concerned?

Red Flags in patient/client history:

- Social Isolation
- Bereavement
- Dependence on another to provide care
- Financially responsible for adult child or spouse
- Alcohol or drug abuse
- Depression or mental illness

Red Flags from clinical observations:

- Cognitive problems
- Fearful, emotionally labile, or distressed
- Suspicious, delusional
- Change in appearance, poor hygiene
- Accompanied by caregiver who is overly protective; dominates patient/client
- Change in ability to perform activities of daily living, including self-care, daily finances, medication management



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Red Flags in Patient/Client History

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Red Flags from Clinical Observations (1)

- Fearful, emotionally labile, or distressed
- Suspicious, delusional
- Cognitive problems

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Prevalence of Cognitive Problems

- 35% (8.8 million) of Americans over the age of 71 have either
 - mild cognitive impairment (MCI)
 - dementia
 - changes in executive cognitive functions*

* Plassman, BL et al. *Annals of Internal Medicine*, Vol. 148, No. 6, pp. 427-434, March 18, 2008 ³²

MCI and Financial Exploitation

- MCI patients are 4 times more likely to make errors than controls*
- Damage to the prefrontal cortex makes affected elders less risk averse, i.e., willing to gamble**

*Okonkwo O. et al. *Journal of the American Geriatrics Society*, 2006

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**Denburg N. *Annals of the New York Academy of Sciences*, December 2007

Red Flags from Clinical Observations (2)

- Change in ability to perform activities of daily living, including self care, daily finances, medication management
- Accompanied by caregiver who is overly protective; dominates patient/client
- Change in appearance, poor hygiene

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Introducing the Issue to Your Patient

- *“We find that some older adults worry about money; may I ask you a few questions about this?” or*
- *“I just read a NY Times article about elders being financially exploited and thought I ought to talk to my mother and my patients, too.”*
- What other opening questions do you think would be good ones?

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Questions You Can Ask (1)

- Who manages your money day to day?
How is that going?
- Do you run out of money at the end of the month?

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Questions You Can Ask (2)

- Do you regret or worry about financial decisions you've recently made?
- Have you given power of attorney to another person?
- Do you have a will? Has anyone asked you to change it?

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Financial Concerns Checklist

- I don't understand financial decisions that someone else is making for me.
- I give loans or gifts more than I can afford.
- My children or others are pressuring me to give them money or change my will.

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Interactions with Possible Responsible Party

- Observe for following behaviors:
 - demeaning comments about the patient
 - defensive, suspicious attitude
 - hostility about your inquiries
 - threat to change doctors

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Tueth, M (*Am J Geriatr Psychiatry* 8:2, Spring 2000)

Referral Sources in Your State

- KY Department of Financial Institutions Securities Division
800-223-2579
<http://kfi.ky.gov>
- United Way – 211 local hotline
www.211.org
- National Association of Professional Geriatric Care Managers
www.caremanager.org
- Case Management Society of America
www.cmsa.org

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Referral Sources in Your State

- Adult Protective Services (APS), Adult Abuse Hot Line
800-752-6200
<http://chfs.ky.gov/dcbs/dpp/Adult+Safety+Branch.htm>
- Attorney General's Office, 502-696-5300
<http://www.ag.ky.gov/protecting.htm>
- Department of Insurance, 800-595-6053 or 502-564-3630, TTY 800-648-6056 <http://insurance.ky.gov/>
- Local Commonwealth Attorney's Office
<http://ag.ky.gov/criminal/pac/commonwealthsmap.htm>

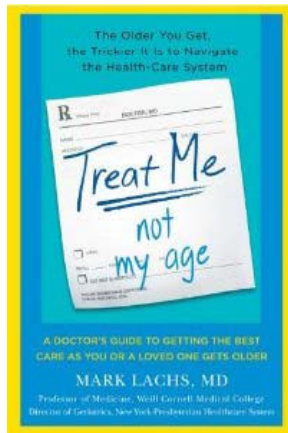
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What You Can Say to Your Patients ...

- Be aware of our own vulnerability
- Be aware of who wants your money
- Be aware of how you can protect yourself
- Be aware of who can help you

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Immunize Your Patients from Bad Financial Decisions*



- ▶ Chapters 17 and 18 in geriatrician Mark Lach's book deal with aging and money issues.*
- ▶ Citing works like this helps patients and their caregivers appreciate your concerns.

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Investor Education and Protection

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Kentucky Department of Financial Institutions

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Investment Fraud Affects Everyone

- In the United States, **BILLIONS** of dollars are lost each year to investment fraud and scams.
- These scams affect both the rich and poor; the sophisticated and the unsophisticated; the timid, the greedy, and the elderly.



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Role of the State Securities Regulator

- KY Dept. of Financial Institutions
800-223-2579 <http://kfi.ky.gov>
 - DFI can verify an investment adviser or broker-dealer's license and complaint history
- Licenses/Registers securities and the professionals who sell them
- Investigates complaints and fraud
- Enforces state securities laws
- Examines firms
- Educates investors

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Investment Products and Vehicles

- A security (also called an investment) is a financial instrument entitling the owner to specified types of financial benefits.
- Products commonly referred to as securities:
 - Stocks, bonds, notes, options, debentures and convertible certificates
- Products not commonly referred to as securities, but still subject to the laws governing securities:
 - Interests in mineral/oil rights, investment contracts and promissory notes
- Common investment vehicles:
 - IRAs (traditional and Roth); mutual funds; exchange traded funds (ETFs); insurance products, i.e. annuities; and employer sponsored retirement plans i.e. 401(k) plans ⁴⁷

What Is Investment Fraud?

- Violates securities laws when investors are induced to make purchase or sale decisions on the basis of false information, frequently resulting in losses.
- Investment fraud can take many forms:
 - Unsuitable investments
 - Fraudulent offerings
 - Unregistered products
 - Unlicensed advisors/brokers
 - Theft or misappropriation of funds

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Who Needs To Be Registered To Sell Securities?

- Brokerage Firms (broker-dealers)
- Broker-Dealer Reps (stockbrokers)
 - Broker transactions in customer accounts
 - Typically receive commissions
- Investment Advisors
- Investment Advisor Representatives
 - Provide advice, make recommendations, issue reports or furnish analysis
 - Some are fee-based, some receive commissions

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Common Scams and Schemes By the Seller

- Lack of disclosure
- Unsuitability (should “know the customer”)
- Unauthorized transactions (Power of Attorney abuse)
- Margin trading
- Churning
- Unreasonable expectations
- Complex investments
- High fees and expenses

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Common Types of Fraud

- Investment Fraud:
 - Unsuitability
 - Affinity fraud
 - Internet investment scams
 - Ponzi and pyramid schemes
 - Oil and gas schemes
 - Promissory note scams
- Caregiver/Family/Friend Fraud:
 - Power of Attorney
 - Change of last will and testament
 - Property conversion

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Affinity Fraud

- Scams that target religious, ethnic and/or professional and other groups
- Schemers use statements such as: “You can trust me because I’m like you” or “We share the same background and interests so let me help you make money.”
- The tight-knit structure of many groups is a perfect environment for criminals to gain the trust of victims.

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How To Spot A Con Artist (1)

- Promise of no risk with high returns
- High pressure sales techniques - offer is for a “limited time” only
- Offer is for YOU only or a “select group”
- Pressure for an immediate response
- Requires an advance payment
- “Cash only” or checks made out personally
- Promises to provide paperwork “later”

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How To Spot A Con Artist (2)

- Often ask for personal information such as bank account or social security number
- Spelling and grammatical errors
- Push poorly understood or complex products
- Ask you to sign black forms or documents
- Inability to contact an independent company representative with questions
- Offers that are too good to be true

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Self-Defense Tips

- Check the background of the investment product and person selling it with DFI
- Get independent statements from the firm
- Make checks out to the brokerage account
- Do your own research
- Monitor investments; ask tough questions
 - Read and understand your statements
 - Report problems to the seller, his/her manager
- Don't let embarrassment or fear keep you from reporting fraud

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Investigate Before You Invest!

- Deal only with registered individuals and reputable firms; ask questions and get documentation; keep and read documents
- Check out your broker/advisor and any securities before committing any money or signing any paperwork
- File a complaint with DFI if you suspect fraud

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Who To Contact

- KY Department of Financial Institutions, 800-223-2579 <http://kfi.ky.gov>
- FINRA BrokerCheck www.finra.org/Investors/ToolsCalculators/BrokerCheck/
- Investor Protection Trust (IPT) www.investorprotection.org
- Securities & Exchange Commission www.sec.gov

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Last Point: Don't Be Nice

- One day a nice man called Edna and Bob and offered them a low-risk investment with a guaranteed high rate of return:



THEY TOLD HIM TO STICK IT IN HIS EAR!

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Evaluation

- Please fill out your Evaluation Form
- This information helps us measure the effectiveness of the program and improve future programs.

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Contact Information

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