Preventing Elder Financial Fraud: It Takes a Village

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Purpose of this Presentation

- Describe the issue of elder financial exploitation
- Identify the “Elder Investment Fraud and Financial Exploitation” prevention program
- Explain the results of a recent national survey on elder investment fraud and real life stores
- List training, tools and takeaway resources available to all partners in protecting seniors for elder financial fraud
What is the Elder Investment Fraud and Financial Exploitation (EIFFE) Prevention Program?

- Utilizes continuing education courses to educate medical and other professionals who routinely see older adults as part of their practice about elder investment fraud, vulnerability to investment fraud due to Mild Cognitive Impairment, recognizing EIFFE in their patients, referral routes for further medical screening and the reporting of suspected fraud.

- The program is currently running in 28 US states and jurisdictions.
Senior financial exploitation and fraud is the illegal or improper use of a senior’s resources for another’s profit or advantage.

- **Exploitation** usually involves someone the senior knows, such as a family member or caregiver.
- **Fraud** is usually perpetrated by a stranger, such as a telemarketer or investment promoter.

**NOTE:** Bad financial decisions may not be considered exploitation.
Help Prevent Financial Exploitation

• Regular contact puts you in a unique position to detect behavior changes and to assist in protecting clients before assets have been disbursed.

• Proactive measures help to promote goodwill within the communities where you have footprints.

• Reporting is consistent with your role in protecting your clients’ assets and safeguarding their information.
Take Home Point

Any condition that impacts a person’s ability to think rationally and clearly puts that person at a greater risk of being abused.
NORMAL AGING

• Mild decline in memory

• Requires more effort and time to recall new information

• Decline does not impair functioning

• New learning is slower but still occurs
  • Usually well-compensated with lists, calendars, other memory supports
MILD NCD/MCI

- MCI: Subjective complaint of decline in at least one cognitive domain: noticeable and measurable
- No impairment in independent living
- 9.4 to 14.3/100 person-years convert to Alzheimer disease; higher in amnestic MCI
- ~50% with amnestic MCI maintain stable level of impairment or return to normal cognitive status in 3–5 yr
The Dementia Syndrome

- Memory Deficit
- Attention
- Executive Function
- Abstract Thinking
- Calculation
- Personality Disturbances
- Neurologic deficits
MANY TYPES

- Alzheimer’s disease
- Frontotemporal dementia
- Vascular dementia
- Lewy body disease
- Parkinson’s dementia
- Progressive supranuclear palsy
- Normal pressure hydrocephalus
- Many others – Vascular Dementias

- You don’t have to know the difference to understand Capacity!
Financial Capacity

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

Different types of Capacity

Decisional Capacity –
• Assessed in relation to a single act at a specific moment in time

Functional Capacity –
• Assessed in relation to an individual’s capacity to care for one’s self and manage one’s finances
Bad Decisions versus Lack of Capacity

Is it OK for Mrs. Smith to live in a house with 25 cats and no litter boxes?
4 Requirements for Capacity

1. **Appreciate** one’s situation as a person confronted with a specific decision
   Identify the situation and the options

2. **Understand** information relevant to the issue at hand. Recall conversations about alternatives. Understand causal relationships
   Process probabilities
4 Requirements for Capacity

3. Think rationally about alternative courses of action. Weigh risks and benefits. Come to a conclusion in keeping with goals/values/interests.

4. Express a choice among alternatives. Make a decision. Be able to express it. If changing the choice, explain the rationale.
Case

• Mr. Jones, I’d like to give you a prescription for a GLP-1 Agonist for your diabetes.

• Don’t go there doc, I already take too much medicine.

• Does Mr. Jones have capacity to make this decision.
Tests of Capacity and references.

- MacArthur Competence Assessment Tool (MacCat-T)
- Aid to Capacity Evaluation
- Decision-Making Involvement Tool
- Preservation of the Capacity to Appoint a Proxy Decision Maker. Arch Gen Psychiatry 2011;68:214-20
“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
In the United States, BILLIONS of dollars are lost each year to investment fraud and scams.

These scams affect both the rich and the poor; the sophisticated and the unsophisticated; the timid, the greedy, and the elderly.
• Each state has a securities regulator to protect its citizens

• The principal focus of state securities regulators is preventing fraud at the retail point of sale
The Role of Your State Securities Regulator

*Licensing* investment professionals

*Registering* certain securities offered to the states’ investors.

*Investigating* investor complaints and potential cases of investment fraud

*Enforcing* state securities laws

*Examining* brokerage and investment adviser firms to ensure compliance with securities laws and maintenance of accurate records of client accounts.

*Reviewing* certain offerings that are not exempt from state law.

*Advocating* passage of strong, sensible, and consistent state securities laws and regulations.

*Educating* investors and providing the tools and knowledge they need to make informed financial decisions.
Common Scams and Schemes

- Ponzi Schemes
- Oil & Gas Schemes
- Promissory Notes
- Internet Investment Scams
- Coins & Precious Metals
- Affinity Fraud
- Nigerian Letters
- Churning
- Lack of Suitability

Charles Ponzi
In many cases, the recruiting member or even the leader of the group becomes a victim of what turns out to be a Ponzi scheme or some other fraud.

Victims may lose their entire life savings, as funds are often depleted before the scam is discovered.

**Remember:**

“Investigate before you invest – no matter who is selling the product.”
The four questions every investor should ask before investing...

1. Is the salesperson licensed to sell securities in your state?
2. Is the investment opportunity registered with a securities regulator?
3. Is there a history of complaints or violations against the salesperson or company?
4. Do you fully understand the investment and the risks?
Stockbrokers/registered representatives

www.finra.org/brokercheck

BrokerCheck®
by FINRA

BrokerCheck can tell you...

...if a broker or brokerage firm is registered.
...what has been disclosed to regulators.
...about a broker's experience.
...about what a broker or brokerage firm is able to do.
**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

**Patient Education Brochure**

**Patient Education**

Learn how to protect yourself and your family from senior financial exploitation

Pennsylvania Securities Commission
Investor Protection Institute
BMC
NAPSA
Pennsylvania Department of Banking and Securities
1.800.PA.BANKS
1.800.600.0007 | out of state 717.787.1854

www.dobs.pa.gov

use consumers tab in upper right corner

Search “PA Investor Education”
Pennsylvania Aging Demographics

Population age 65 and over is expected to increase from 15% of the total population in 2010 to 19% in 2020, and 23% in 2030.

Population age 85 and over is also expected to increase over the next 20 years in both total number and percentage.

(Source: Pennsylvania State Data Center)
Risk Factors

- **Vulnerability**
  - Exhibiting signs of disease or disability

- **Financial Capacity**
  - The ability to make and execute decisions with personal preferences and values regarding finances

- **Limited Investment and Financial Knowledge**
  - Allows the fraud perpetrator to engage in illegal or improper activity more easily

- **Undue Influence**
  - Family, friends, acquaintances use relationships to deceptively gain control over the victim’s decision-making
Two Important Definitions

PA’s Older Adult Protective Services Act’s Definition:

**Exploitation** - An act or course of conduct by a caretaker or other person against an older adult or an older adult’s resources, without the informed consent of the older adult or with consent obtained through misrepresentation, coercion or threats of force, that results in monetary, personal or other benefit, gain or profit for the perpetrator or monetary or personal loss to the older adult. (35 P.S. § 1025.103)

“Undue Influence” has been defined in many ways. One example:
- “When exploiters, whether family, acquaintances, or strangers, use their power to deceptively gain control over the decision making of a victim. Often involves financial exploitation.”
Impact of Abuse on Victims

• Financial health affects overall health
  ▪ Victims of elder abuse are three times as likely to die in the 3 years after mistreatment compared to their non-abused contemporaries (Lachs et al. (1998). “The Mortality of Elder Mistreatment,” JAMA, Vol. 280(5), 428-432)

• Financial losses can be devastating for seniors
  ▪ Impacts available food, medication, housing, and other services
  ▪ Over half of individuals 55 and over have less than $50,000 in savings and investments (Employee Benefits Research Institute, 2015, available at http://www.ebri.org/files/RCS15.FS-4.Age2.pdf)
  ▪ Generally, losses cannot be recouped
Physiological Factors

• Aging and Diminished Financial Capacity
  - 35% (8.8 million) of Americans over the age of 71 have:
    - Mild cognitive impairment (MCI)
    - Dementia
    - Changes in executive cognitive functions
  - Persons experiencing MCI 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
    (Denburg N. *Annals of the New York Academy of Sciences*, December 2007)
Extent and Cost of Abuse

Of all reports substantiated by Office of Adult Protective Services in the latest prior, FY 15-16...

Financial Exploitation is now #1
Versus FY 14-15, 14% were for financial exploitation. This was the third largest category after self-neglect (44.9%) and caregiver neglect (18%).

A 2015 report states that older Americans lose $36.5 billion each year to financial scams and abuse (source: CNBC)
Ask General Questions to “Open the door”

- “I just read a NY Times article about seniors being financially exploited and decided to talk to my family and all of my clients about this.”

- “How is your living situation?”

- “Are all your needs being met?”
MANDATORY REPORTERS
Any person having reasonable cause to believe that an older adult is in need of protective services may report such information to the agency which is the local provider of protective services…
(35 P.S. § 10225.302(a))

Voluntary Reporters – Everyone Else!
Any person having reasonable cause to believe that an older adult is in need of protective services may report such information to the agency which is the local provider of protective services…

APS  1.800.490.8505
Benefits of Reporting and Referring

Community Benefits

• Improved safety in your community for seniors and other clients.
• Proactive measures help promote goodwill in your community.
• Protecting the finances of your clients helps to preserve their financial independence.
• Provides more effective cooperation between you, APS agencies and local law enforcement.
The APS Process and Timetables

1. A concerned citizen contacts his/her local APS office to report concerns about the welfare of a senior or adult with disabilities.

2. The details provided in the report will be screened by a trained professional to evaluate if it meets the statutory requirements for APS services in the state and/or municipality receiving the report.

3. If the situation meets criteria for abuse, neglect or exploitation, an APS worker will initiate face-to-face contact with the adult needing assistance.
Reporting and Referral Contacts

With or without consent (Reporting):

• Adult Protective Services
  1.800.490.8505
• Law Enforcement
• Securities Regulator
  PA Department of Banking and Securities
  1.800.PA.BANKS

With consent (Referring):

• Legal Services for the Elderly
  SeniorLAW: 1.877.727.7529 or 215.988.1242
• Local Area Agency on Aging
  aging.pa.gov
• Domestic Violence Hotline
  800-799-7233
• Sexual Assault Hotline
  888-722-7227

Any adult in immediate danger: 911
Community-Based Services

- Always provide the senior with the SeniorSafe brochure, which includes resource information.
- A referral to community-based services may be useful.
- Some of those services may include:
  - Legal Aid Services
  - Area Agency on Aging
  - Domestic Violence and Sexual Assault
Elder Financial Abuse Is Elder Abuse!
If you work with elderly clients in financial services or even as your own family ages, here is some important information. Learn what you can do today to protect individuals you suspect are being financially abused.

Watch our for signs of Elder abuse:
- Social isolation
- Poor financial choices
- Changed will or power-of-attorney
- Reduced ability to make decisions

“Red Flags” of Financial Abuse

Decision Making
- Trouble paying bills
  - Cannot make financial decisions alone
  - Does not understand financial decisions that are made
  - Others pressuring for money or changes to will
  - Others accessing accounts/missing money
  - Cannot reach financial advisor

Suspicious Behavior
- Others showing too much interest or control
- Display of fear, anxiety, or submission
- Does not understand own financial status
- Others do not allow you to speak to your elderly client
- Discusses suspicious financial windfall
- Decline in appearance/appearance of neglect

Suspicious Account Activity
- Others conducting business for your elder client without proper authority
- Abrupt changes to financial, legal documents
- Nonpayment for services, bills
- Account activity without regard for penalties, fees
- Noticeable changes in established financial patterns
- Changes of address that do not reflect your client’s residence

Suspicious activity
- Unexplained disappearance of funds or possessions
- Large withdrawals from previously inactive account
- Large withdrawals from new joint account
- Sudden appearance of credit card balances

How to Respond

Ask questions such as “Who manages your money and how is that going?” or “Do you regret any recent financial decisions?”

If you are suspicious, inquire about financial activities, suggest alternatives to large withdrawals, or talk to your elderly client about ways to limit the risk of joint accounts.

Follow up on your suspicions by checking third-party documentation, talking to your compliance staff, talk privately with your elderly client, or contact management.
Preventing Elder Financial Abuse

PA Dept. of Banking and Securities
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www.aging.pa.gov