

Preventing Elder Investment Fraud: Assessing for Vulnerability to Financial Exploitation

Baylor College of Medicine
Huffington Center on Aging
Texas Consortium Geriatric Education Center
The Houston Center for Quality of Care & Utilization Studies
at the Michael E. DeBakey Veterans Affairs Medical Center

Ten Presentations in Texas, Spring 2009



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<http://www.investorprotection.org>



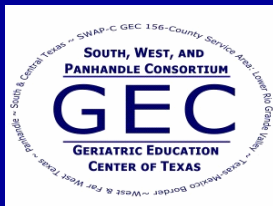
Disclosure

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- Development of the Clinician Pocket Guide was made solely by members of the project group.



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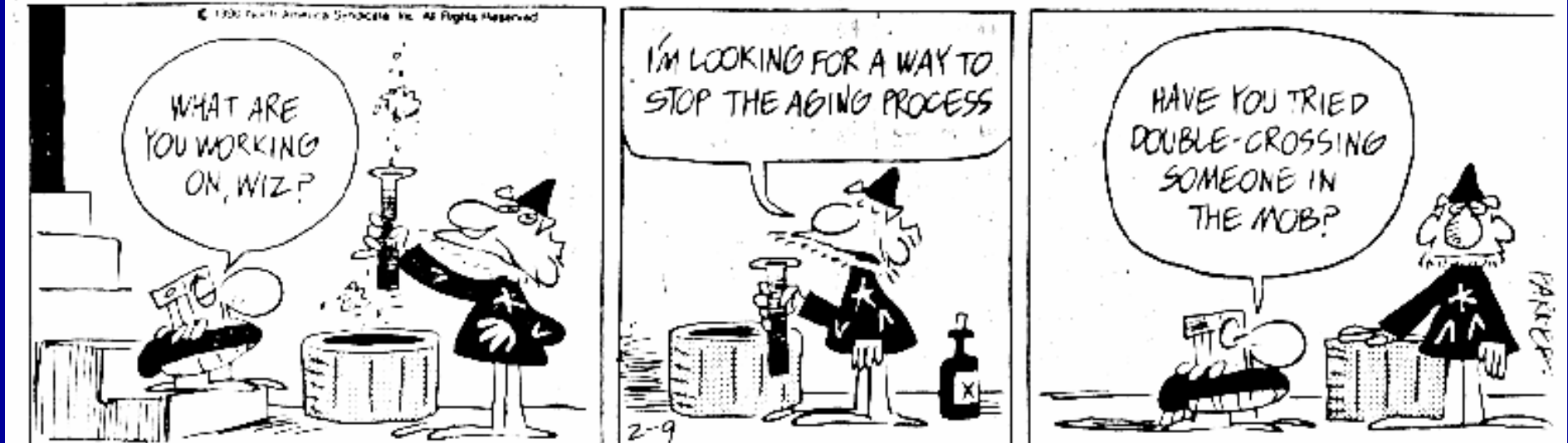
UNIVERSITY of NORTH TEXAS
HEALTH SCIENCE CENTER
AT FORT WORTH



The Aging Process

THE WIZARD OF ID

By Parker and Hart



Biblical Quotes on Aging

- Leviticus 19:32 – “You shall rise up before gray hairs, and honor the face of an old man.”
- Isaiah 46:4 – “Even in old age, I am He, and to gray hairs I will carry you.”
- Proverbs 16:31 – “White hairs are a crown of glory.”

Source: <http://www.activitytherapy.com/spirit.htm>; accessed 01/04/02.



My Favorite Quote on Aging...

- “Old age is like everything else in America. To make a success of it, you’ve got to start young!”

– Theodore Roosevelt



Biopsychosocial Outcomes

- Age-related changes
 - Environmental factors
 - Coping mechanisms



Age-related Changes

- Normal changes with age
 - Common geriatric problems



Coping Mechanisms

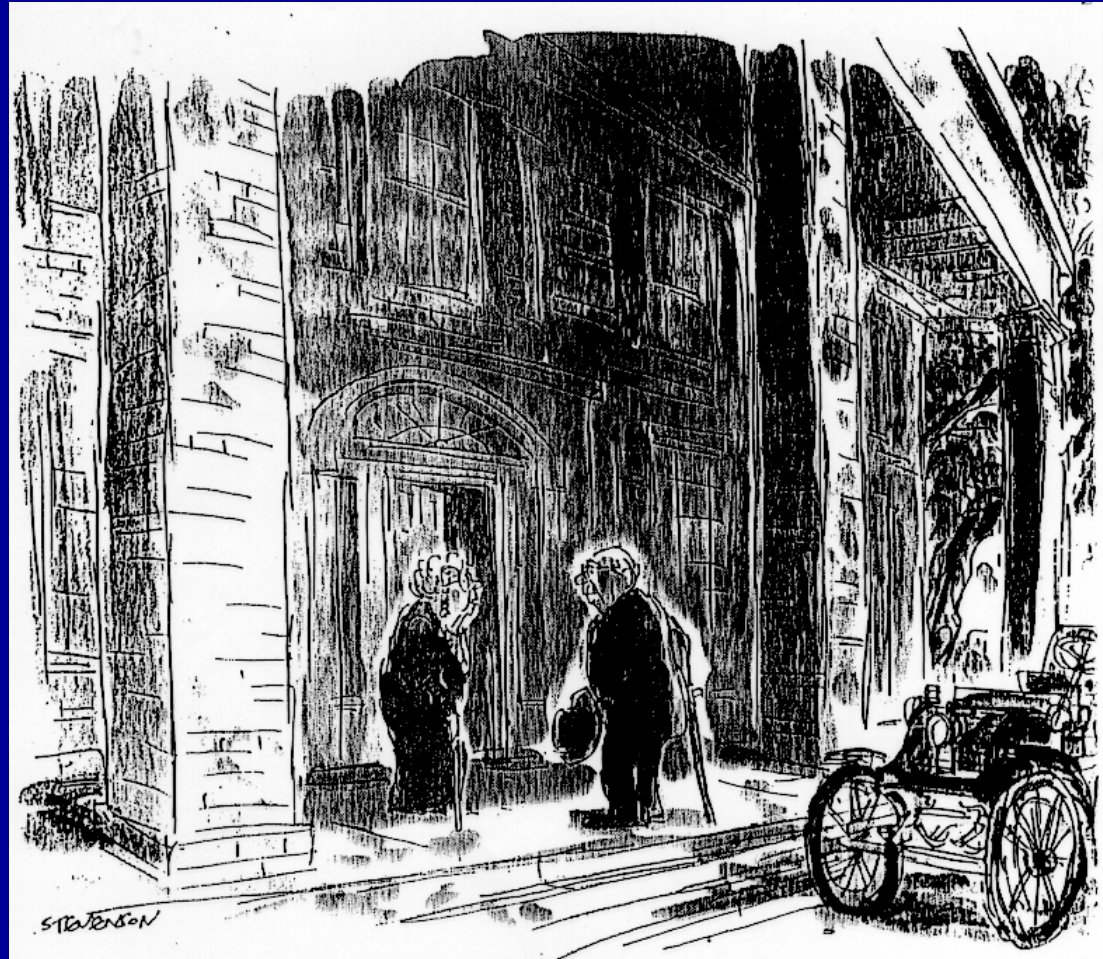
➤ Losses

➤ Role changes

➤ Adapting



Scarlett O'Hara in 1915



"I'm sorry, Rhett, but now I don't give a damn."



It happens to the best of us...
Paul McCartney is 66!

Still Need Me? Paul Turns 64

McCartney, other sexagenarian
rockers keep rolling along

- Photos: Rock's greatest geezers



Global Aging

- 1.2 billion older people projected worldwide in the year 2025;
- 70% of world's older population will be in developing countries;
- Net increase of one million people 60 years of age monthly now;
- 1st of 78 million U.S. boomers became eligible for Social Security January 2008!
- Each day 12,000 persons in U.S. turn 62

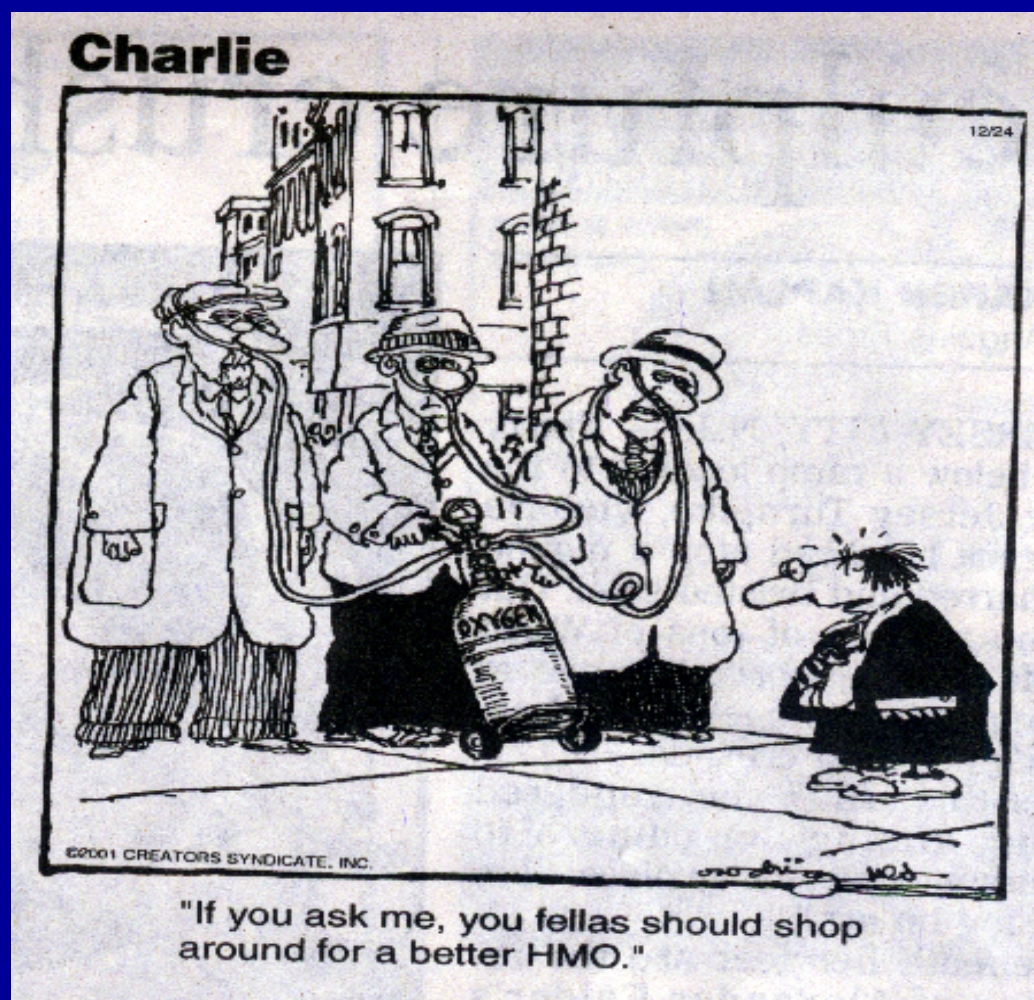


The Geriatrics Dilemma

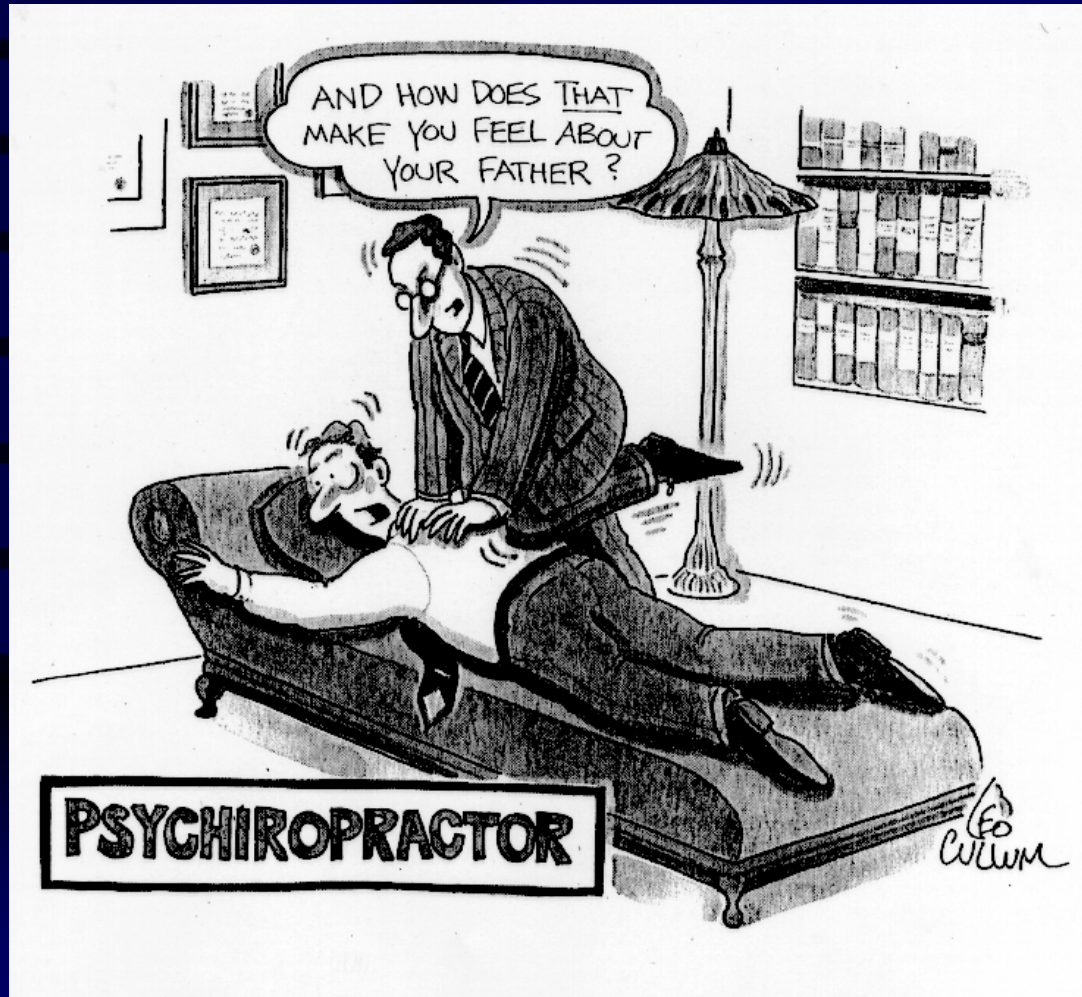
- 37.5 million older Americans
- Need 30,000 MDs with CAQs in Geriatrics
- 7,500 now
- Need 2,100 academic geriatricians
- Have 1,100 now
- Not all medical schools require geriatrics
- 3.5% elect geriatrics
- Only 218 Geriatric Medicine fellows in US now
- Similar situation exists in other health fields



It's not always the doctor's fault...



Sometimes we go to the wrong doctor



Part 1: Goals...

- Raise clinical awareness of elder investment fraud and financial exploitation (EIFFE)
 - it's a serious, growing problem
 - what you can do about it
- Provide information and resources that can help you
 - based on your personal knowledge of a patient or client
 - but unclear how to ask about it or types of referral sources



Learning Objectives – attendees should be able to...

- List key factors that increase an older person's vulnerability to elder investment fraud and financial exploitation.
- Describe common financial exploitation schemes and practices.
- Describe when to and where to refer patients deemed high risk to appropriate sources of assistance.



Raising Awareness (1)

- Why addressing this issue is so important...
 - vulnerable population is large and growing
 - financial health affects overall health
 - financial loss impacts available food, medication, and other health services



Raising Awareness (2)

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



Raising Awareness (3)

- Even older adults with savings in the low millions can't afford to lose substantial amounts, as they don't have the time to make it up.
- Current resources exist for patients only after harm occurs to them; little is available to prevent EIFFE
- Many aspects of normal aging and disease can contribute to older adults' vulnerability to EIFFE



Raising Awareness (4)

- Of all elder abuse cases reported 30% were for financial exploitation (National Elder Abuse Study, 1998)
- 2008 study shows 3.5% of Americans age 57-85 have been victims of financial abuse (E. Laumann et al., *J Geron: Soc Sc*, Vol. 63B, No.4)
 - similar prevalence to heart attacks



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



Important Areas for EIFFE

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

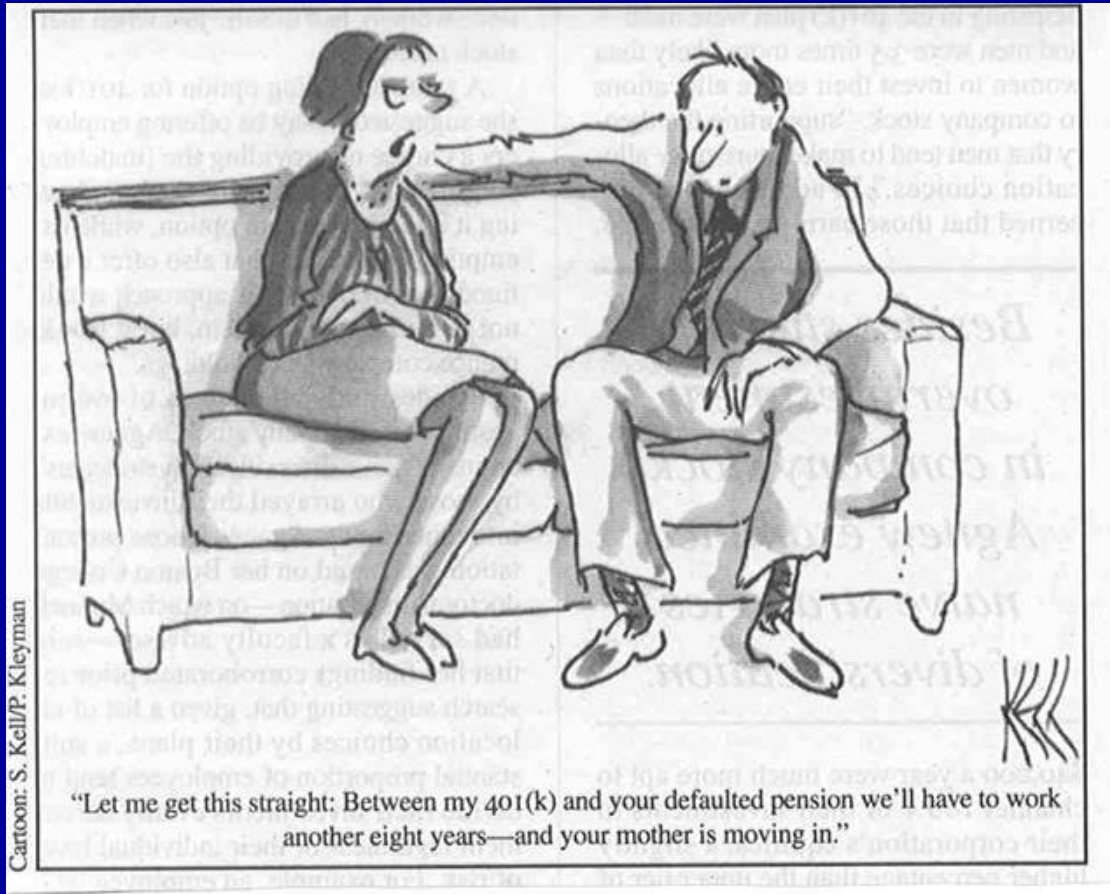


Vulnerable Older Adults

- An older adult is vulnerable if he/she demonstrates characteristics or performs behaviors that are associated with subsequent morbidity, disability, or death.



Problems Saving for an Old Age



Financial Capacity

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



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.aspx



Undue Influence

- “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.”



Case Scenario 1

- Mr. Allen is an 83-year-old man who lacks financial capacity due to Mild Cognitive Impairment (MCI). Mr. Allen has involved his son Steven in some financial decisions. While Mr. Allen is a conservative investor, Steven likes to take risks. He invests a large portion of his father's retirement funds in a risky stock. Soon afterwards, the stock falls dramatically. Out of embarrassment, Steven doesn't tell his father what he has done. (Is this fraud?)



Case Scenario 2

- Mrs. Hartford is an 86-year-old recent widow. Her daughter, Mae, hires a caregiver, Susan, to help around the house. Mae notices that Susan is acquiring lots of new things. Then Mae discovers she cannot access her mother's accounts anymore. She visits her mother; Susan is no where to be found.
- Susan had unduly influenced Mrs. Hartford into signing a durable power of attorney. She then depleted Mrs. Hartford's retirement funds. Once Mae realized what was happening, Susan took what was left of Mrs. Hartford's savings and fled. (Is this fraud?)



Case Scenario 3

- 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 The Texas Department of Insurance
<http://www.tdi.state.tx.us/>



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.



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



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



Relationship Between Undue Influence and Vulnerability

- An increase in dependency on others
 - arises from vulnerability
 - increases chances of being unduly influenced by others



Part 2: Clinical Assessment of Vulnerable Older Adults

- Simple office-based assessment of potential vulnerability to EIFFE
 - recommended questions you can add to patient's waiting room paperwork
 - assessment questions clinician asks during visit using *Clinician's Pocket Guide*



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



Should I be concerned?

- Red flags in patient/client history – situations or reasons patients may be at higher risk for vulnerability
- Red flags from clinical observations – traits of a patient who may be at risk for vulnerability



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
(see next slide on prevalence)



Prevalence of Depression

- 20% of older adults have Major Depressive Disorder (MDD) or some symptoms of depression.
- Depression as a risk factor: older adults who are abused tend to be > depressed compared to those who aren't.
- Depression as a consequence: older adults can develop depression as a result of being abused or exploited.
 - leaves them open to even more exploitation

NIH Senior Health: <http://nihseniorhealth.gov/depression/aboutdepression/04.html>

NCEA: http://www.ncea.aoa.gov/NCEAroot/Main_Site/Library/Statistics_Research/Research_Reviews/emotional_distress.aspx



Red Flags from Clinical Observations (1)

- Fearful, emotionally labile, or distressed
- Suspicious, delusional
- Cognitive problems (see next slides)



Prevalence of Cognitive Problems

- One-third or 8.8 million Americans over the age of 71 have either
 - mild cognitive impairment (MCI)
 - dementia
 - changes in executive cognitive functions



MCI and Financial Exploitation

- MCI patients are 4 times more likely to make errors on a validated financial capacity instrument*



*Marson DC, et al: *Am J Geriatr Psychiatry*: 2008

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



Neglect and Vulnerability

- A change in appearance or poor hygiene can indicate neglect; self or by caregiver
- Neglect accounts for most reports of elder abuse



Introducing the Issue to Your Patient

- *“We find that some older adults worry about money; may I ask you a few questions about this?”*
- What other opening questions do you think would be good ones?



Clinical Suspicion Leads to Asking Good Red-flag Questions



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?



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?



Do I probe deeper or refer?

- If answers raise suspicion:
 - go to four referral sections in pocket guide or
 - probe for further details (See Financial Concerns Checklist which may be added to the patient/client information packet and completed during intake.)



Financial Concerns Checklist (1)

- Are you having any of the following common concerns?
 - I have trouble paying bills because the bills are confusing to me.
 - I don't feel confident making big financial decisions alone.



Financial Concerns Checklist (2)

- 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.



Financial Concerns Checklist (3)

- People are calling me or mailing me asking for money, lotteries.
- Someone is accessing my accounts or money seems to be disappearing.



What types of referral may be needed? (1)

- Help with managing money or other care tasks.
 - poor resource management or limited resources available; needs assistance with finances, meals, transportation, ADL's.

- Legal advice or protection.
 - needs assistance with financial planning or legal documentation.



What types of referral may be needed? (2)

- Fraud and exploitation may have occurred.
 - needs legal counsel
- Further medical evaluation.
 - needs assessment for cognitive, neurological, or other conditions



Referral Sources in Texas (1)

- United Way – 211
- Texas Department of Aging and Disability Services (DADS)
- National Association of Professional Geriatric Care Managers
- Investor Education



Referral Sources in Texas (2)

- National Academy of Elder Law Attorneys (NAELA)
- Legal Hotline for Older Texans



Referral Sources in Texas (3)

- Adult Protective Services (APS)
- Texas State Securities Board
- Texas Attorney General's Office
- Texas Department of Insurance
- Local District Attorney's Office



Ethical Considerations

- Concerns about calling any local or state regulatory agency
- Literature suggests talking to the patient alone and the possible responsible party



Interactions with Possible Responsible Party (1)

- Use non-confrontational demeanor
- Ask about relationship to the patient
- Discuss patient's daily activities and routines
- Discuss any of patient's special needs



Interactions with Possible Responsible Party (2)

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



Referral Sources in Texas (4)

- Appropriate specialists such as a geriatrician, neurologist, psychiatrist, or psychologist may be warranted.



Part 3: What You Can Do Today...

- 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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- 1968-1990 & 2003-2004: Office of Commissioner of Securities, State of Georgia.
- 1985-1986: President, North American Securities Administrators Association
- 1990: Retired as Deputy Secretary of State and Assistant Securities Commissioner for the State of Georgia
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Three Areas of Information

➤ **FRAUD**

- Power of Attorney, Change of Last Will & Testament
- Property Conversion
- Con Artist

➤ **FINANCIAL INSTITUTIONS**

- Regulatory Structure
- Investment Products
- Areas of Concern
- Investment Advisers / Financial Plans

➤ **FOCUS ON PREVENTION**

- Telephone Solicitations
- Monthly Statements
- What you Should Expect
- Self Defense Tips
- Contact Information



FRAUD - Lying, Cheating & Stealing

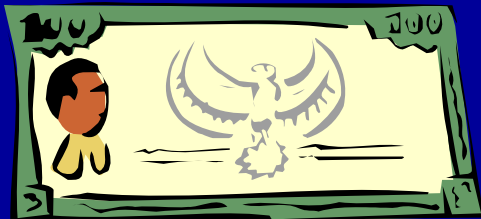
➤ **Caregivers / Family / Friends**

- Power of Attorney
- Change of Last Will & Testament
- Property Conversion

➤ **Investment Fraud**

- Ponzi & Pyramid Schemes
- Cheap Stock / Boiler Room Sales
- Exotic Investments
- Foreign / Off-Shore Certificates of Deposit (CDs)
- Affinity (Religious or Faith Based Schemes)

➤ **E-mail Scams, “Something for Nothing”**



How to Spot a Con Artist



- They “Dress for \$ucce\$\$”
- They talk FAST!
- High pressure sales techniques – a “Limited Offering”
- They push poorly understood and complex products
- Extensive documents or NO documents
- They often ask for SS number and bank information
- Asked to sign blank forms or documents
- A new “Fair Weather Friend”
- A new person in church
- A strange voice on the telephone
- Check out any free lunch or dinner offer
- Older investors are their top targets. “WHY”?



Do investors really fall for these schemes? – University of Georgia Survey, Fall 2003

- **57%** agreed if an investment is registered with the SEC, it has been reviewed to make sure its safe!
- **26%** agreed that day trading is a good way to make money quickly!
- **37%** agreed that variable annuities are usually good investments, no matter what your age!
- **26%** agreed that if you're smart and invest in the right things, you can make a lot of money quickly without risk!
- **73%** agreed that a very high rate of return is okay as long as the investment is guaranteed or bonded



Financial Institutions - Regulatory Structure

➤ **Federal**

- U.S. Department of the Treasury
- U.S. Securities & Exchange Commission (SEC)
- Federal Deposit Insurance Corporation (FDIC) (\$100,000 now, temporary increase to \$250,000 to December 31, 2009)
- National Credit Union Administration (NCUA - \$250,000 currently)
- Securities Investors Protection Corporation (SIPC)
- U.S. Comptroller of the Currency
- U.S. Commodities Futures Trading Commission
- Federal Bureau of Investigations (Internet Fraud)

➤ **State**

- State Securities Regulatory Agencies (North American Securities Administrators Association "NASAA")
- State Criminal Investigative Agency; District Attorneys
- State Banking & Insurance Commissioners

➤ **Self Regulatory Organizations**

- FINRA (formerly known as NASD)
- New York and Regional Stock Exchanges
- National Futures Association (NFA)



Financial Institutions

FINRA Survey, December 2003*

- 50% thought stock market losses were insured!
- 70% knew virtually nothing about margin risks!
- 97% thought they needed to be better informed!

Education and awareness
are the best weapons in the fight
against investment fraud.

*Financial Industry Regulatory Authority, the largest independent regulator for all securities firms doing business in the United States. FINRA oversees nearly 5,000 brokerage firms, 172,000 branch offices, and 663,000 registered securities representatives. Its chief role is to protect investors by maintaining the fairness of the U.S. capital markets.



Financial Institutions

Investment Products

- Historical Track Record – Investment Pyramid
- Investment Risk
- Individual Equities – market concerns
- U.S. Government Securities
- Individual Retirement Accounts – 401(k) Accounts
 - Concentration / Diversification
 - Tax issues
- Mutual Funds
 - Breakpoints
 - Multiple Families / Switching
- Annuities – contract with insurance company
 - Variable Annuities – fees, commissions, cancellation of contract
 - Indexed Annuities – complex product
 - Fixed Annuities
 - Tax issues and concerns



Financial Institutions

Areas of Concern

- Guaranteed or bonded
- Knowledge of products
- Misrepresentations & omissions to state material facts
- Suitability and “know your customer”
 - Net Worth, Income, Age, Investment Experience
 - Other investments
 - Risk Tolerance
- Unauthorized transactions (Power of Attorney Abuse)
- Margin trading
- Churning
- Unreasonable expectations
- Complex investments
- High fees and expenses



Financial Institutions

Investment Advisers

- Types
 - Federal Registered
 - State Only Registered
 - Fee Only
 - Commission Only
- Financial Plans
 - Interview Process
 - Complex Individual Plans
 - Computer models
 - Asset Allocation
- Conflicts
- Unreasonable expectations
- Fees and expenses



Investors Should Expect

- Work history and background of individual and firm
- Information on risks, obligations, and costs
- Investment to be suitable based on experience, finances, age
- Copies of forms and agreements
- Monthly account statements
- Understandable terms and conditions
- Timely access to your funds
- Receive prompt attention to problems
- Knowledge of commissions, sales charges, service charges, etc.



Self-Defense Tips

- Don't be a courtesy victim
- Check out strangers touting strange deals
- Always stay in charge of your money
- Don't judge a book by its cover
- Watch out for salespeople who prey on your fears
- Don't make a tragedy worse with rash financial decisions
- Monitor your investments and ask tough questions
- Look for trouble retrieving your principal or cashing out profits
- Don't let embarrassment or fear keep you from reporting fraud/abuse
- Beware of “averaging down” scams
- Read & understand your monthly statement – report problems to your broker or his/her manager
- Unknown caller offering investment product: “HANG IT UP”



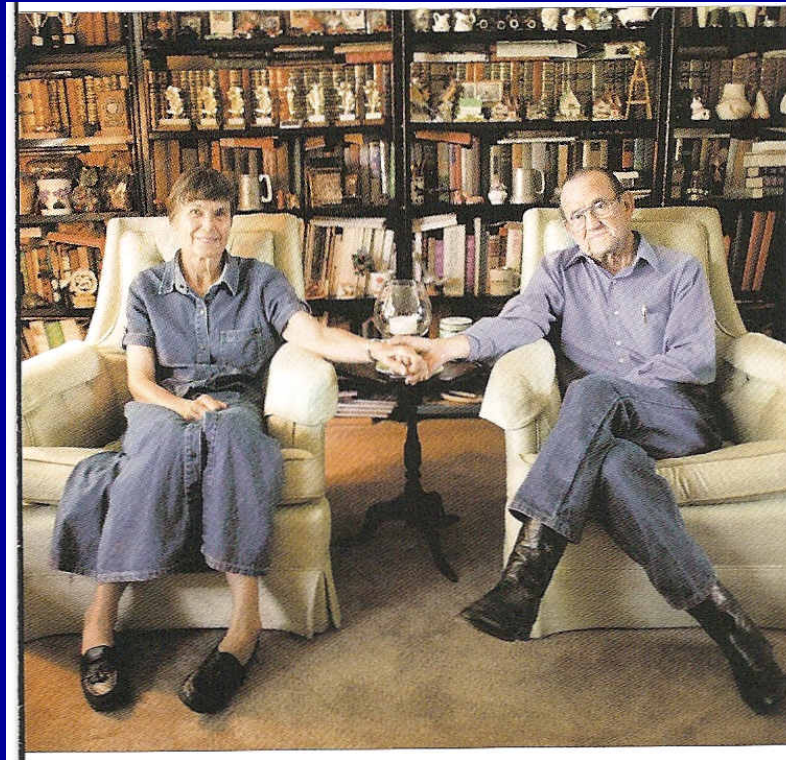
Investors' Due Diligence

- Deal only with registered individuals and reputable firms
- Check on licensing or registration status, disciplinary history or pending arbitration and employment history for the past 10 years through the Central Registration Depository (CRD) at:
<http://www.finra.org/Investors/ToolsCalculators/BrokerCheck/index.htm>.
- Ask questions and get documentation; Keep and read documents
- Other interesting websites:
 - North American Administrators Association (NASAA) at
<http://www.nasaa.org/InvestorEducation/SeniorInvestorResourceCenter/>
 - Investor Protection Trust (IPT) at
<http://www.investorprotection.org/learn/?fa=campaign>
- Contact Texas Securities Board at (512) 305-8300.
- Contact Securities & Exchange Commission at www.sec.gov, 801 Cherry Street, Fort Worth, TX 76102, (817) 978-3821.



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!

Contact Information

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