

Dilemmas in Assessing Financial Capacity in Older Adults: Undue Influence or Compulsive Gambling or Scam?

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Learning Objectives

- Appreciate the **prevalence** of financial incapacity in older adults with and without cognitive impairment
- Recognize **signs of impaired** financial capacity
- Evaluate financial capacity using standardized models and **assessment** tools
- Develop a **differential diagnosis** for financial incapacity in older adults
- Understand the **role of psychiatric consultants** in helping financially incapacitated older adults and their families

Case Scenario 1: "Mr. Grandpop"



- 82-year-old man with undiagnosed vascular dementia gets an email from his long forgotten "loving grandson," in which someone purporting to be a grandchild asks for money to get themselves out of "legal trouble" overseas.
- Over the course of one week, Mr. G wires money from his bank account and loses \$100,000.

Case Scenario 2: Mrs. Friendly

- A frail 92-year-old woman living alone in a 4,700 sq ft home, hires a repairman to fix her roof.
- He befriends her, bringing her coffee and donuts almost daily and staying for conversation
- He convinces her to take out a reverse mortgage.
- Then, knowing her bank account numbers and log in, he absconds with the \$400,000 she received for the reverse mortgage.

Case Scenario 3: Mr. Golden Child

- A successful businessman in his 60s suffered two strokes. His son moved in to provide care. The son convinced both parents to move south.
- He then "updated" the address of their financial statements to his own post office box and forged their names to open fraudulent bank accounts.
- He had their financial advisor wire funds to these accounts, stealing more than \$3 million.
- The father died penniless on Medicaid in a nursing home.

Case Scenario 4: Mrs. Property

- Mrs. P is an 89 y.o. woman who was working on a will and was able to describe how she wished to distribute her property.
- Her rationale was based on a paranoid delusion that she was cutting one daughter out of her will because she believed that this daughter was stealing from her.
- In fact, the court had discovered that her son, who lived with her, was in fact stealing from his mother and poisoning the relationship between the mother and daughter.

Case Scenario 5: Mr. Sweetheart Swindle

- Mr. S was a very successful real estate developer who had amassed sizable retirement savings.
- But within a few years after turning 60, that retirement fund was completely gone. He was in debt, and the IRS was coming after him.
- His loving wife of 40 years discovered that in the span of just a couple years, he had gambled away their entire life's savings (in gambling, telemarketing and an online dating scam) even though he had never been a gambler prior to that.

What is Financial Capacity?

Financial Capacity

- "Medical-legal construct that represents the ability to **independently** manage one's financial affairs in a manner **consistent** with one's personal self-interest and values"
 - Cognitively mediated; vulnerable to multiple conditions affecting cognition
 - Basic financial concepts, possessing basic monetary skills, carrying out cash transactions and paying bills.
- "Performance" and "judgment" aspect

Manson, D. Clinical and Ethical Aspects of Financial Capacity in Dementia: A Commentary. Am J Geriatric Psychiatry. 2013 April

Clinical and Legal Aspects

<p>Clinical</p> <ul style="list-style-type: none"> - Instrumental activity of daily living - Broad set of abilities <ul style="list-style-type: none"> - Identifying and counting coins/currency - Conducting cash transactions - Managing checkbooks - Investment decisions - Dependent on SES, occupational attainment and overall financial experience 	<p>Legal</p> <ul style="list-style-type: none"> - Handling one's estate and financial affairs - Determinations of conservatorship ("guardianship of estate") - Contractual capacity - Donative capacity - Testamentary capacity
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Financial vs Medical Decision-Making Capacity

<p>Financial</p> <ul style="list-style-type: none"> ▪ Encompass broad range of activities and time frames ▪ Diverse community setting ▪ Broad range of cognitive abilities – visual attention and scanning, visual memory, mental and written arithmetic abilities <ul style="list-style-type: none"> ▪ Procedural learning – checkbook register/ATM 	<p>Medical Decision-Making</p> <ul style="list-style-type: none"> ▪ Discrete decision-making at a particular time point by a patient/research candidate ▪ Specific settings: hospital/clinic/academic medical center ▪ Verbally mediated = capacity of verbal conceptual knowledge and short-term verbal memory
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Marson, D. Clinical and Ethical Aspects of Financial Capacity in Dementia: A Commentary. *Am J Geriatric Psychiatry*. 2013 April

What is Financial Exploitation?

Financial Exploitation

- "Illegal or improper use of an older adult's funds or property for another's profit or advantage"
- 6 domains of financial exploitation (Conrad, 2010)
 - Theft and scams
 - Abuse of trust
 - Financial entitlement
 - Coercion
 - Signs of possible financial abuse
 - Money-management difficulties

Conrad et al. (2010). Self report measure of financial exploitation of older adults. *The Gerontologist*, 50(6), 758-773.

Learning Objective

- Appreciate the **prevalence** of financial incapacity in older adults with and without cognitive impairment

Epidemiology

- Younger older adults (55-65): **most** likely to report
- AA more likely to report
- Participants with a romantic partner less likely to report
- Most common experience was signing documents
- Risk for depression and having at least one ADL deficit

Laumann, E. O., Leitsch, S. A., & Waite, L. J. (2008). Elder mistreatment in the United States: Prevalence estimates from a nationally representative study. *The Journals of Gerontology Series B: Psychological Sciences and Social Sciences*, 63(4), S248-S254

Epidemiology

- Prevalence has been estimated to be **3.5% to 20% of adults over 65 years of age** depending upon the demographics and methodology employed
- MetLife (2011) reported that the annual financial loss of elder financial abuse is estimated to be at **least \$2.9 billion, a 12% increase from the \$2.6 billion estimated in 2008.**

Acierno, Hernandez-Tejada, Muzzy, & Steve, 2009; Beach, Schulz, Castle, & Rosen, 2010; DeLiema, Gassounis, Homeier, & Wilber, 2012; Lachs & Berman, 2011
 The MetLife Study of Elder Financial Abuse: Crimes of Occasion, Desperation, and Predation Against America's Elders

Age of Fraud: Who is at risk?

- **People 50 and older hold 83% of the wealth in America;** households headed by people in their 70s and 80s tend to have the highest median net worth. (Federal consumer survey)
- One out of every 20 older adults in the U.S. is a victim of financial exploitation, losing an average of \$80,000 to \$186,000.
- Nearly half of these crimes are committed by someone the older adult knows and trusts, like a relative or caregiver.

Legal Background

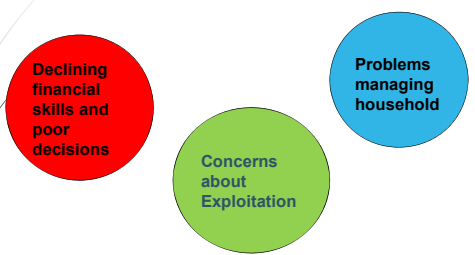
- 1980s: Administration on Aging created a National Center on Elder Abuse
- 1992, 2006: Amendments to Older American Act re-defined "elder abuse"
- 2009: **Elder Justice Act** (part of Affordable Care Act)



Learning Objectives

- ┆ Appreciate the *prevalence* of financial incapacity in older adults with and without cognitive impairment
- ┆ Recognize *signs of impaired* financial capacity

How do they usually present?



Declining financial skills and poor decisions

Concerns about Exploitation

Problems managing household

Recognizing Signs of Impaired Financial Capacity

Evidence from clinicians' assessments

- A diagnosis of a medical condition that may affect cognition or functional ability (i.e., MCI, AD, stroke)
- Impairments in basic cognitive tests (abnormal Mini-Cog, MMSE <24 depending on age and education norms or problems with serial 7s or 3s)
- Noticeable change in appearance or poor hygiene
- A history of recent loss of a partner who may have been managing finances
- New family members or caregivers accompanying patient to clinic visit

Widera E, Steinglass V, Marson D, Sultore R. Finances in the older patient with cognitive impairment. "He didn't want me to take over". JAMA. 2011 Feb;305(7):698-706

Recognizing Signs of Impaired Financial Capacity

Evidence from direct reports of patients, family members, or caregivers

- **New difficulty** with common financial skills (calculating change, writing a check, organizing financial documents, managing assets)
- **Forgetting** to pay utility bills or rent, eviction or service disconnection
- Concern or confusion about **"missing funds"** in bank accounts
- Reports of erratic, **unusual, or uncharacteristic** purchases, withdrawals, or gifts
- **Accusations** that people are stealing or mismanaging his/her money

Warning signs : **decline from an individual's prior baseline level of financial functioning:**

- Memory
- Disorganization
- Confusion
- Math Skills
- Judgment

Back to case vignettes!

- In the case of "grandparent scam" – Cognitive deficits secondary to vascular dementia
- In the case of Mrs. Friendly – History of undue influence
- Mr. Golden child: History of neurological/cognitive deficits and a hx of multiple strokes
- In the case Mr. Sweetheart - History of sudden change in behavior

Learning Objectives

- Appreciate the **prevalence** of financial incapacity in older adults with and without cognitive impairment
- Recognize **signs of impaired** financial capacity
- Evaluate financial capacity using standardized models and **assessment** tools

Brief Informal Assessment (Widera et al, 2011)

Questions for patients and family	
General Questions	"Who manages your/their money, property (and/or investments)" "Do you have anyone besides yourself on your checking and savings accounts" "How long has it been like this?" "Are you/they having any problems"
Specific Questions	"Are you/they having any new problems making change (and/or calculating tips)?" "When was the last time you/they were late paying a bill?" "When was the last time you/they bounced a check?" "Have you received any letter or phone calls from your/their bank with concerns about your/their account?" "Has anyone stolen or cheated you/them out of money?"

Instruments	Author, Year	Dimensions of Financial capacity
Financial Competency Questions	Bassett (1999)	Legal Knowledge concerning managing a checking account
Financial Capacity Instrument (FCI)	Marson et al. (1999)	Basic monetary skills; financial conceptual knowledge; cash transactions; checkbook management; bank statement management; financial judgment bill payment and knowledge of personal assets and estate arrangements.
Semi-Structured Clinical Interview for Financial Capacity (SCIFC)	Marson et al. (2009)	Basic monetary skills; financial conceptual knowledge; cash transactions; checkbook management; bank statement management; financial judgment bill payment and knowledge of personal assets and estate arrangements.
LFDRS: Lichtenberg Financial Decision Making Rating Scale.	Lichtenberg, (2015)	consists of 61 multiple-choice questions. possible to be asked up to 17 additional questions. 4 four subscales: Financial Situational Awareness, Psychological Vulnerability, Susceptibility to Undue Influence, and Intellectual Factors (i.e., decisional-ability factors)

Martin et al.

TABLE 1. Revised Conceptual Model of Financial Capacity: 18 Tasks, Nine Domains, and Overall Capacity

	Task Description	Difficulty
Domain 1: Basic monetary skills	Identify specific coins and currency	Simple
Task 1a: Naming coins/currency	Indicate monetary values of coins/currency	Simple
Task 1b: Coin/currency relationships	Accurately count arrays of coins and currency	Simple
Task 1c: Counting coins/currency		
Domain 2: Financial conceptual knowledge	Define simple financial concepts	Complex
Task 2a: Define financial concepts	Practical applications/computation using concepts	Complex
Task 2b: Apply financial concepts		
Domain 3: Cash transactions	Conduct one-item transaction; verify change	Simple
Task 3a: One-item grocery purchase	Conduct three-item transaction; verify change	Complex
Task 3b: Three-item grocery purchase	Obtain change for vending machine; verify change	Complex
Task 3c: Change/vending machine	Understand tipping conventions; calculate tips	Complex
Task 3d: Tipping		
Domain 4: Checkbook management	Identify/explain parts of checkbook and register	Simple
Task 4a: Understand checkbook	Conduct simple transaction and pay by check	Complex
Task 4b: Use checkbook/register		
Domain 5: Bank statement management	Identify/explain parts of a bank statement	Complex
Task 5a: Understand bank statement	Identify specific transactions on bank statement	Complex
Task 5b: Use bank statement		
Domain 6: Financial judgment	Detect/explain risks in mail fraud solicitation	Simple
Task 6a: Detect mail fraud risk	Detect/explain risks in telephone fraud solicitation	Simple
Task 6b: Detect telephone fraud risk		
Domain 7: Bill management	Explain meaning and purpose of bills	Simple
Task 7a: Understand bills	Identify overdue utility bill	Simple
Task 7b: Prioritize bills	Prepare bills, checks, envelopes for mailing	Complex
Task 7c: Prepare bills for mailing	Indicate personal assets and estate arrangements	Simple
Domain 8: Knowledge of assets/estate*	Understand investment options; determine returns; make and explain decision	Complex
Domain 9: Investment decision-making		
Overall financial capacity	Overall functioning across tasks and domains	Complex

*Requires corroboration by informant.

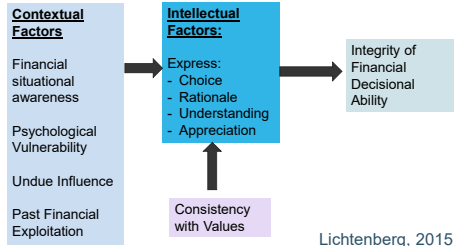
Assessment tools:

- Marson's **Financial Capacity Instrument (FCI)** identifies three elements of financial capacity.
 - ✓ specific financial abilities
 - ✓ broad domains of financial activity
 - ✓ overall financial capacity.
- **Limitations:** use of neutral or hypothetical stimuli like "How could you be sure the price of a car is fair?"

- **LFSS: Lichtenberg Financial Decision Screening Scale:** 10-item Financial Decision Making Screening Scale (LFSS).
- **LFDRS: Lichtenberg Financial Decision Making Rating Scale.** consists of 61 multiple-choice questions.
 - 4 four subscales:
 - ✓ Financial Situational Awareness
 - ✓ Psychological Vulnerability
 - ✓ Susceptibility to Undue Influence
 - ✓ and Intellectual Factors (i.e., decisional-ability factors)

Lichtenberg PA, Stoltman J, Ficker LJ, Hs M, Mast B. [A Person-Centered Approach to Financial Capacity Assessment: Preliminary Development of a New Rating Scale](#). *Clin Gerontol*. 2015 Jun 1;38(1):49-67.

Key components of financial decision making abilities (Conceptual model)



Lichtenberg, 2015
The Intersection of Financial Capacity and Financial exploitation.

Conceptual model of Financial capacity

- Intellectual factors are the most proximal and central to determining the integrity of financial decisional abilities. ***(unless they are overwhelmed by the impact of contextual factors)***
- Underlying assumptions of a person centered approach
 - ✓ People are more than the sum of their cognitive abilities
 - ✓ Traditional approaches overemphasize deficits and underemphasize remaining strengths
 - ✓ It is important to understand the person's subjective experience particularly in relation to the positive and negative reaction to the behaviors of others.

Contextual Factors

Financial situational awareness

Psychological Vulnerability

Past Financial Exploitation

- ✓What are your **current sources of income**?
- ✓How worried are you about having **enough money** to pay for things?
- ✓**Who manages** your money day to day?
- ✓How often do you **wish you had someone to talk** to about financial decisions or plans?
- ✓Have you **recently lost someone who was a confidante**?
- ✓How often do **you feel downhearted or blue** about your financial situation or decisions?
- ✓Have you **ever had checks missing** from or out of sequence in your checkbook?
- ✓Do you **have a credit or debit card that you allow someone else to use**?

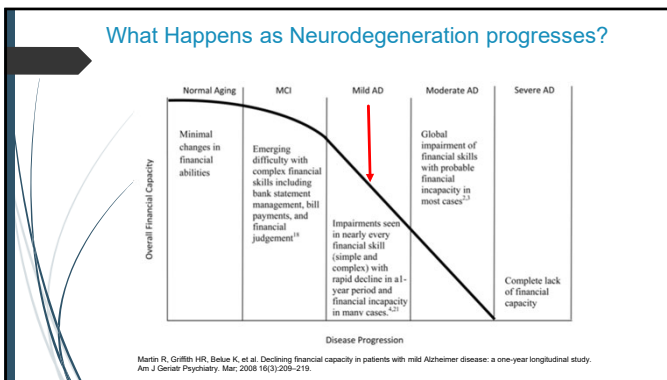
Contextual Factors

Sentinel Financial decisions/transactions

- ✓What **current major financial decisions** or transactions are you intending to make?
- ✓What are **your personal (financial) goals** with this transaction?
- ✓**How much risk** is there that this transaction could result in a loss of funds?

Undue Influence

- ✓Have you **had any conflicts** with anyone about the way you spend money or to whom you give money?
- ✓Has **anyone asked you to change your will**?
- ✓Was this transaction **your idea or did someone else suggest it**?
- ✓Did this person drive or accompany you to carry out this financial transaction?



- Rates of progression of IADL disabilities → Depends on MCI subtype.
 - ✓ Multi-domain MCI → higher rates of IADL problems compared to single-domain MCI patients.
 - ✓ Both MCI groups → greater IADL problems compared to healthy older adults.
- Over a 6-year period, persons with MCI demonstrated significant declines in multiple financial skills and in particular financial judgment. (Martin, 2019)

Martin RC, Gerstenecker A, Triebeil KL, Falola M, McPherson T, Cutter G, Marson DC. Declining Financial Capacity in Mild Cognitive Impairment: A Six-Year Longitudinal Study. Arch Clin Neuropsychol. 2019 Mar 1;34(2):152-161.

156 R.C. Martin et al. / Archives of Clinical Neuropsychology 34 (2019); 152-161

Table 1. FCI annual percentage change for the MCI group

Financial Capacity Instrument	Baseline	3-year follow-up	% Change	6-year follow-up	% Change
Domain 1: Basic Monetary Skills	96	87	-9	81	-15
Domain 2: Financial Conceptual Knowledge	95	85	-10	74	-21
Domain 3: Cash Transactions	93	83	-11	75	-18
Domain 4: Checkbook Management	97	83	-14	77	-20
Domain 5: Bank Statement Management	91	75	-16	68	-23
Domain 6: Financial Judgment	95	82	-13	58	-37
Domain 7: Bill Paying Skills	93	78	-15	61	-32
Domain 8: Knowledge of Personal Finances	100	94	-6	83	-17
Domain 9: Making Investment Decisions	90	68	-22	59	-31
FCI total score: Domains 1-7	95	78	-17	71	-24
FCI total score: Domains 1-9	94	84	-10	72	-22

Note: Difficulty Value is the percentage of control group performance at baseline, 3-year, and 6-year. Change value is the decline in percentage of control group performance at baseline. FCI = Financial Capacity Inventory, MCI = mild cognitive impairment, % = percent.

Systematic review (Sudo and Laks, 2017)

- **Mild Alzheimer's Disease (AD)** was associated with **impaired complex FC abilities**, namely checkbook management, bank statement management and financial judgment, but simple FC skills were preserved.
- **Moderate AD** was associated with impairment in **all domains** of FC.
- The Financial Capacity Instrument (FCI) was applied in most of the selected studies and correlated with neuropsychological and neuroimaging variables.

Sudo FK, Laks J. [Financial capacity in dementia: a systematic review.](#) Aging Ment Health. 2017 Jul;21(7):677-683.

What are the Clinical and Legal Implications?

- **Limiting guardianship to complex financial decisions** may be enough to protect most patients with **mild AD** from abuse and self-neglect.
- **Less restrictive legal options**, such as supported decision-making, might be applied in mild AD and MCI individuals, when complex FC is only marginally impaired

(Marson et al., 2009)

What determines financial incapacity?

"A clinical judgment of financial incapacity is generally made when there is **substantial incongruence** between an individual's current financial abilities and supports, and the financial needs and demands he or she experiences in everyday life"

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Developing a Differential Diagnosis

- Medication-induced
- Undue Influence
- Scamming
- Neurocognitive disorders
- Rule out other psychiatric disorders
- Gambling

Role of Medications

- Dopamine Receptor agonists
- FDA's Adverse Event Reporting System (FAERS) database report
 - 1580 reports of impulse control disorders from the United States and 21 other countries (2003 – 2012)
 - **Gambling** - most frequent behavior, (39.7%)
 - **Hypersexuality** (29.4%)
 - **Compulsive shopping** (12.8%)
 - **Pyromania**

Pyromania??

the morbid impulse to wander away from home [7.9%]
[G. pyroia, a journey, + mania, frenzy]

Mrs. Friendly

- A frail 92-year-old woman living alone in a 4,700 sq ft home, hires a repairman to fix her roof.
- He befriends her, bringing her coffee and donuts almost daily and staying for conversation
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- 82-year-old man with undiagnosed vascular dementia gets an email from his long forgotten “loving grandson,” in which someone purporting to be a grandchild asks for money to get themselves out of “legal trouble” overseas
- Over the course of one week, Mr. G wires money from his bank account and loses \$100,000


Gambling in Older adults

- Older adults in retirement are more vulnerable to gambling problems. Have more time and money to spend on leisure activities, such as gambling
- Loneliness, limited financial resources and decreased cognitive functioning that could lead to poor decision-making

Gambling as a Social activity?


- Gambling is the **most highly attended social activity** (In a study of 6,957 active senior citizens)
- Gambling was found to be the most patronized type of social activity in older adults
- ✓ 23 % of the older adults (aged 65+) played bingo more than four times a month
- ✓ 16 % of the older adults (aged 65+) participated in **organizationally-sponsored trips to a gambling casino on a more than monthly basis**

McNeilly DP, Burke WJ. [Gambling as a social activity of older adults](#). Int J Aging HumDev. 2001;52(1):19-28.




- Of the 101 million visitors to casinos in 2014 nearly half were age 50 or older
- In 2014, American casinos reported over \$66 billion in gambling revenue, and much of that profit came from these older gamblers.
 - ✓ Desirable demographic
 - ✓ Fill the floors during off-peak hours
 - ✓ Target aggressively, offering discounts on breakfast and lunch, free drinks and guarantees to "instantly win up to \$1,000 Free Slot Play!"
 - ✓ The "third of the month club" provides complimentary shuttles from senior centers and retirement housing complexes on the day they receive their Social security checks.

(AARP Bulletin, 2016)



- The strongest predictors of at-risk gambling behavior
 - ✓ Binge drinker
 - ✓ Presence of current posttraumatic stress disorder symptoms
 - ✓ Minority race/ethnicity, and being a VA clinic patient
 - ✓ Subjects with mild-to-moderate cognitive impairment were just as likely as those without impairment to gamble and to report at-risk gambling behavior.



Prevalence of Gambling in Older adults

- Study on prevalence rate of gambling in a sample of elderly patients over 65 in primary care setting (at the Philadelphia VAMC and the University of Pennsylvania)
- Of 843 screened patients → 69 % reported that they had participated in at least one gambling activity in the last year.
- At-risk gamblers were defined as those who reported having bet more than \$100 on a single bet and/or having bet more than they could afford to lose in the last year.
- 10.9% were identified as at-risk gamblers.
(Levens , Dyer, Zubritsky, Knott, & Oslin, 2005)

Levens S, Dyer AM, Zubritsky C, Knott K, Oslin DW. [Gambling among older, primary-care patients: an important public health concern.](#) Am J Geriatr Psychiatry. 2005 Jan;13(1):69-76.

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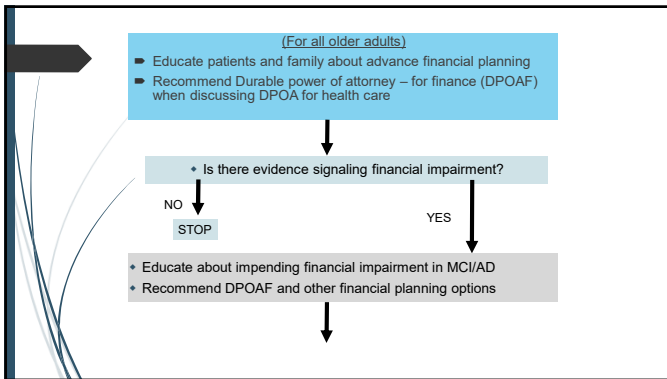
Role of Psychiatric Consultants

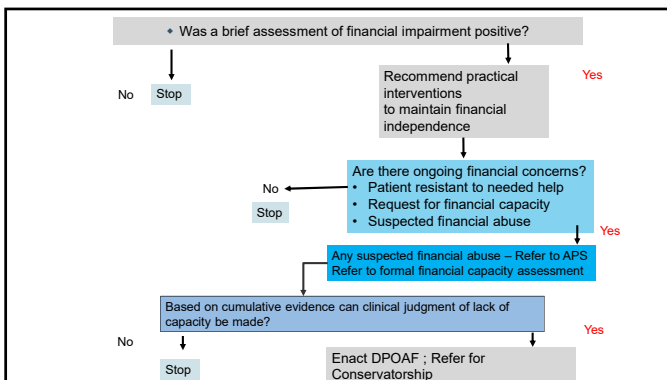
- Educating patients and families about the need for advance financial planning
- Recommending a DPOAF (Duration Power of Attorney for Financial matters)
- If elder abuse is suspected, clinicians have an obligation to call Adult protective services and/or other public agencies as mandated by state law

Role of Psychiatric Consultants

Practical Financial Interventions

- ✓ Financial institutions can help by **automatically depositing checks** into one's account, paying bills, setting up overdraft protections, and notifying a third party if bills are not paid on time
- ✓ Benefit providers including the Social Security administration, Veterans Affairs, civil service, and railroad pension programs, and some state programs can appoint a representative payee, commonly known as a **"rep payee," to receive and manage benefits**
- ✓ **Daily Money Management programs** can also assist with tasks such as bill paying, checkbook management, insurance claims, and tax preparation





Conservatorship Vs. Guardianship

what is CONSERVATORSHIP?

Conservatorship grants one or more people the power to make estate planning decisions on financial matters for someone who is found to be unable to manage their affairs.

- Buying food
- Managing property
- Acquiring and managing assets
- Paying bills

what is GUARDIANSHIP

Gives an individual the authority to decide on matters relating to the physical and mental well-being of a person.

Duties include:

- Deciding where the person will live
- Caring for clothing, nutrition, vehicles, etc.
- Consenting or withholding consent to medical care
- Providing care, comfort and overall well-being for the individual

Conclusions

- FC is a complex, multidimensional construct, comprising a set of cognitive abilities, which are essential for the independent functioning in older adults
- Identifying intact from functionally impaired older persons is an important task for clinicians, since decline in those skills is a major risk factor for elder abuse and self-neglect
- Detecting financial incapacity has implications in both clinical and legal fields.

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Questions?
