THE GERONTOLOGICAL SOCIETY OF AMERICA®

Public Policy & Aging Report
cite as: *Public Policy & Aging Report*, 2016, Vol. 26, No. 1, 15–17
doi:10.1093/ppar/prv032

OXFORD

Article

New Approaches to Preventing Financial Exploitation: A Focus on the Banks

Peter A. Lichtenberg, PhD, ABPP*

Institute of Gerontology, Wayne State University, Detroit, MI

*Address correspondence to Peter A. Lichtenberg, PhD, ABPP, Institute of Gerontology, Wayne State University, 87 E. Ferry Street, Detroit, MI 48202. E-mail: p.lichtenberg@wayne.edu

Manuscript received October 6, 2015; Accepted October 13, 2015

Decision Editor: Robert B. Hudson, PhD

Key words: Financial capacity, Financial exploitation, Financial services industry

The Problem

An 84-year-old man with mild to moderate Alzheimer's disease can no longer manage his money or even shop at the local grocery store, but when taken to a bank, he signs a notarized reverse mortgage and loses $240,000 to his handyman who has secretly befriended the man over a 6-month period. What is needed for the financial services industry to help prevent financial exploitation of this type while simultaneously not infringing upon the rights of its customers? The largest increase in the older adult population in U.S. history is something to celebrate—yet, at the same time, current and future trends signal that financial exploitation is, and will continue to be, a significant threat for older adults. Intergenerational wealth is being transferred now at the highest rate in our history, which is a good indicator that the current older generation has significant wealth. Although anyone can be the victim of financial exploitation, declining cognition and early dementia are two of the greatest risk factors. The collision between an increasingly older population with high prevalence of cognitive impairment (Plassman et al., 2008) and those seeking to financially exploit them is rapidly increasing. Stiegel (2012) vividly described the fact that financial capacity and financial exploitation are connected. That is, that older adults' vulnerability is twofold: (1) the potential loss of financial skills and financial judgment and (2) the inability to detect and therefore prevent financial exploitation. Dong (2014) argued that accurate assessment of financial capacity, and financial decision-making capacity in particular, is the cornerstone assessment in many cases of financial exploitation.

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Solutions

Three solutions are described here: (1) proactive planning between financial service providers and their customers, (2) continuous improvement efforts to educate financial services frontline providers about cognitive impairment, dementia and its detection, as well as the increased ability to identify financial transactions that put the older adult customer at high risk for financial exploitation, and (3) a new person-centered method to assess financial decision making in older adults suspected of having cognitive impairment, dementia, or who may be at high risk for financial exploitation.

With the dramatically increasing population of adults over the age of 85, is the reality that many of these adults will at some point in their lives suffer from cognitive impairment or dementia. Many elder law attorneys and financial planners who specialize in working with older adults proactively plan for this possibility with their clients. The manager of a bank could also use an educational and counseling approach to work with their cognitively

intact customer to plan for a potential future time when the customer would exhibit signs of dementia. Who would the customer authorize the bank to contact in a situation such as this: a family member, a trusted attorney, or a financial planner? Getting a written plan into place is an important proactive step. The bank should also actively inquire of older customers as to whether there is a power of attorney for finances in place. Many banks are hesitant to honor power of attorney documents and thus should plan to meet with the power of attorney before any crisis exists.

The accurate detection of cognitive impairment and dementia, and behaviors that are high risk for financial exploitation, by frontline tellers and bankers is a second strategy. One method is to train staff on triggers. Behavioral triggers are patterns of behavior exhibited by older adults that are recognizable by staff and may indicate memory loss. These are marked by several features such as any change in the older adult's status.

A sampling of triggers include:

- Move to senior housing or assisted living
- Presentation of self-neglect (i.e., hygiene, grooming, weight loss)
- Getting lost coming to or becoming disoriented inside the bank
- Requiring transportation compared to previously being independent
- Family or others accompanying older adult to bank when they previously did not
- Repeated questions during interaction
- Difficulty following directions
- Older adult unable to recall financial recommendations from prior visit
- Older adult unable to give good recent history of financial decisions/dealings
- Trouble with handling paperwork
- Older adult has no knowledge of a newly issued ATM, debit or credit card
- Sudden appearance of previously uninvolved relatives claiming their rights to an older adult's affairs and possessions
- Large withdrawals from a previously inactive checking or credit account or a new joint account
- Account use shortly after the addition of a new authorized signer

One of the challenges in preventing financial exploitation in older adults is that financial services industry professionals are not equipped to detect capacity concerns as they arise. Because decision-making capacity is a cornerstone assessment in financial exploitation, effective instruments for measuring financial decision-making capacity are essential. We introduce a new financial decision-making screening scale that can be administered by any professional who works with older adults. Our screening scale was developed from a larger more comprehensive scale.

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Lichtenberg, Ficker, and Rahman-Filipiak (2015a) and Lichtenberg, Stoltman, Ficker, Iris, M., and Mast (2015b) created two scales that are based on a person-centered approach to financial decision making: a *comprehensive decision-making rating scale* and a *screening scale*. Our method is based on the belief that (1) people are more than the sum of their cognitive abilities, (2) their values matter, (3) the context of their life matters, and (4) they make decisions based on what is important to them and not according to how good they are at remembering things or solving new problems. We argue that (1) traditional approaches overemphasize deficits and underemphasize strengths, (2) the subjective experience of the person with dementia remains important, and (3) we need to listen to—and hear—what the individual has to say about the decision in question. The most difficult and important tension in financial decision-making assessment is balancing autonomy with the need for protection because both under- and overprotection can be costly for the individual.

Framework

None of the available instruments directly assesses financial judgment capacity or the underlying decisional abilities of the older adult. As described below, we conducted an in-depth process to create a new evaluation tool, the *Lichtenberg Financial Decision-Making Rating Scale* (*LFDRS*; Lichtenberg et al., 2015a, 2015b), which focuses specifically on the financial decision in question.

First, a new conceptual model, "Financial Decisional Abilities (FDA)," was developed. The FDA, which integrates the key contextual and intellectual factors that influence the major financial decisions older adults make, is described below. Contextual factors include "Financial Situational Awareness," which includes being aware of income streams, concerns about spending, etc.; "Psychological Vulnerability," which includes loneliness and depression; "Susceptibility to Undue Influence (*I*)," which includes allowing others access to bank accounts, cash. Contextual factors directly affect the "Current Decision (CD)" associated with decisional abilities when making a sentinel financial transaction or decision. CD factors, based on the decision-making abilities framework of Appelbaum and Grisso (1988), refer to the functional abilities needed for financial decision-making capacity and include an older adult's ability to (1) express a "Choice (C)", (2) communicate the "Rationale (R)" for the choice, (3) demonstrate an "Understanding (U)" of the choice, (4) demonstrate "Appreciation (A)" of the relevant factors involved in the choice, and (5) ensure that the choice is consistent with

past cherished "Values (V)." Intellectual factors, unless they are overwhelmed by the impact of contextual factors, are the most proximal and central to the integrity of financial decisional abilities.

In our first study with the screening scale, we found evidence for criterion-related validity in 69 older adults (Lichtenberg et al., 2015a), where the screening scale score was significantly related to neurocognitive tests and money management scales as well as to financial exploitation. Our second study was both an examination of implementation and construct validity. In our second study, 108 older adult participants were administered the scale by frontline professionals (attorneys, financial planners, and physicians). Each professional was trained as follows. First, the professional received an in-person or Webinar-based training that addressed cognition, cognitive decline, and dementia in older adults; financial exploitation; financial capacity and financial decision making; the linkages between financial decision making and financial exploitation; and specific applications of our screening scale. Second, videos of four administrations of the screening scale, as well as a video that gave an overview of the instrument's conceptual approach, were provided. And third, within 2 weeks, we contacted each professional to answer any questions about how to administer the scale and its rating system. With regard to construct validity, we found that the screening scale differentiated those with capacity as judged by frontline professionals from those who did not have capacity, and the scale differentiated those with substantiated financial exploitation (as documented by Adult Protective Services) from those where complaints of financial exploitation went unsubstantiated.

Conclusion

The banking industry can improve its interactions with older adults by creating proactive planning programs, recognizing signs of cognitive impairment, dementia, and financial exploitation and by learning new methods of assessing financial decision-making abilities. There is a need for real-time assessments and interventions if financial exploitation and decisions made by older incapacitated persons are to be curbed.

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