

Financial Capacity Assessment: Balancing Autonomy v Protection

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Peter Lichtenberg Background and Experience

- 40- year career as a Clinical Geropsychologist and Geriatric Neuropsychologist
- Expert in Dementia assessment, financial capacity assessment, Guardianship and Conservatorship, Late Life Depression, financial decision-making and exploitation.
- A 2024 bibliographic study named me as publishing the most peer review articles on fraud/FE of anyone in the world.
- I have presented at the NAPSA conference and FE summit multiple times
- Been funded by the Department of Justice on several grants as well as the NIH and served on expert panels for the DOJ and NIH.
- Worked on over 300 evaluations relevant to probate court issues, and testified on capacity, undue influence, GA and CA 30+ times overall.
- Do Pro Bono work for MI Prosecutors, MI AG and for APS

My mentor/friend/
family: Jeff Barth
1949-2025



Overview

- I. Introduction to ethical issues in financial capacity assessment
- II. Neuropsychology for the non-neuropsychologist
- III. Assessment of Financial Decision making and its intersection with financial exploitation
- IV. Assessment of Undue Influence



Financial Capacity (FC)	A quality of an individual – here defined through psychological research	1. Financial execution 2. Financial decision making 3. Financial Management
Financial Incapacity (FIC)	A legal characteristic of an individual – here defined through conservatorship statutes	1. Inability to manage money and property due to a neurocognitive or mental health condition 2. High risk of waste or dissipation of property without intervention
Financial Decision Making (part 2 of FC)	An aspect of financial capacity	1. Understanding 2. Appreciation 3. Reasoning 4. Choice
Financial Exploitation	A relationship between two persons	1. Improper use of funds, property or resources by another 2. A form of elder abuse 3. Diminished financial capacity increases your risk for financial exploitation.

The Domains of Financial Capacity: Financial Management, Financial Decision Making and Avoiding Financial Exploitation



Capacity Assessments attempt to resolve the tension between need for autonomy and protection

- Both under and over-protection of older adults can lead to damaging consequences. Under protection for older adults can lead to gross financial exploitation. Moreover, the dilemma is that over protection can be equally as costly. Many older adults have very strong needs for autonomy and control.

There are five basic areas to assess that health professionals apply when conducting a standard financial capacity assessment



1. Diagnosis of any disorder(s) suffered by the subject and diagnosis of the severity of disorder(s);
2. Evaluation of decisional abilities;
3. Evaluation of environmental support and the potential to compensate for knowledge deficits;
4. Issues related to undue influence
5. Application of the specific legal standard for capacity.

A few classic ethical considerations

Beneficence and nonmaleficence

We strive to benefit those with whom they work and take care to do no harm.

Protection vs. autonomy: Potential for harm in under or over-protections

Beneficence and nonmaleficence

Protection

- Protect the welfare of clients
- Protection – expanded from basic safety to protection from exploitation and financial abuse
- Protection from self-induced impoverishment

Beneficence and nonmaleficence

Autonomy

Protect the rights of older clients

- Right to make decisions about their time and activity
- Right to make decisions about money and property

Age, sickness, and cognitive decline alone are not sufficient for taking away these rights

Beneficence and nonmaleficence

When conflicts occur among our obligations or concerns, we attempt to resolve these conflicts in a responsible fashion that avoids or minimizes harm.

Capacity evaluation seeks to resolve this tension in a way that avoids or minimizes harm

*The Central Question of Every
Investigation is...*

*Do we need to Promote Autonomy
or
Help Provide Protection?*

Scope of competence

Professionals must know their own strengths and weaknesses and not over-reach.

Training necessary for competence

What is your *Education, Experience and Expertise*

Justice

All persons should have access to competent professional services

Two key issues – competence and access

Challenging question in rural or otherwise underserved areas where the psychologist may not be considered an expert in other settings.

Fidelity and responsibility

Professional standards of conduct:

clarify their professional roles and obligations, seek to manage conflicts of interest that could lead to exploitation or harm.

Clarify who you are working for (i.e. who hired you), purpose of the evaluation, what will be done with results

Ethical dilemmas to
consider

Issues regarding informed consent

- Limits of confidentiality?
- When an older person lacks the ability to consent?

Hired by an attorney for contractual capacity assessment

- Results show lack of capacity
- Attorney does not want you to write a report
- What are the issues? What should be done?

Issues in Assessment Procedures

- Use of evidence-based tools
- Neurocognitive screening vs. assessment— what are the differences and what are the ramifications?
- Retrospective assessment— what are the pros and cons for capacity?

Integrity

Professionals seek to promote accuracy, honesty, and truthfulness and we do not steal, cheat or engage in fraud, subterfuge, or intentional misrepresentation of fact. We strive to keep their promises and to avoid unwise or unclear commitments.

Not wise or ethical to only report what supports your findings (i.e. purposely leave out notes that are not supportive of your opinion)

Ethical Issue

- An older adult is brought in to see you clinically for an evaluation and you get the feeling through interview with collaterals that what they really want is a capacity assessment and for you to testify regarding incapacity.
- What issues come to mind?

Collateral Reports

How might we view collateral reports differently in a capacity evaluation vs a clinical one?

Gray Area: Who is an expert

State laws guide who the courts will accept as an expert but generally it is someone with special training and experience in gerontology and capacity/undue influence.

Courts qualify you after getting your credentials and experience on the record and asking the attorneys if there is any objection.

Put the Older Adult First

The Older adult is not a patient or client.... However.... My goal is that the evaluation and experience they have with me is a good and pleasant one.

People tell you things when they feel a genuine caring from you. Don't get nervous or stilted in your evaluations.

Expand your knowledge of financial exploitation

Psychology late in focusing on FE

Capacity assessment intersects strongly with FE

FE will continue to grow and Geropsychology has important roles to play– and assessment is one of those.

Questions/Comments about Ethics section

Next section is Neuropsychology for
the non-Neuropsychologist

General Considerations in working with Older Adults: Neurocognitive Assessment

Sensory changes

Physical disability

Education and normative data

Cultural Factors

Depression

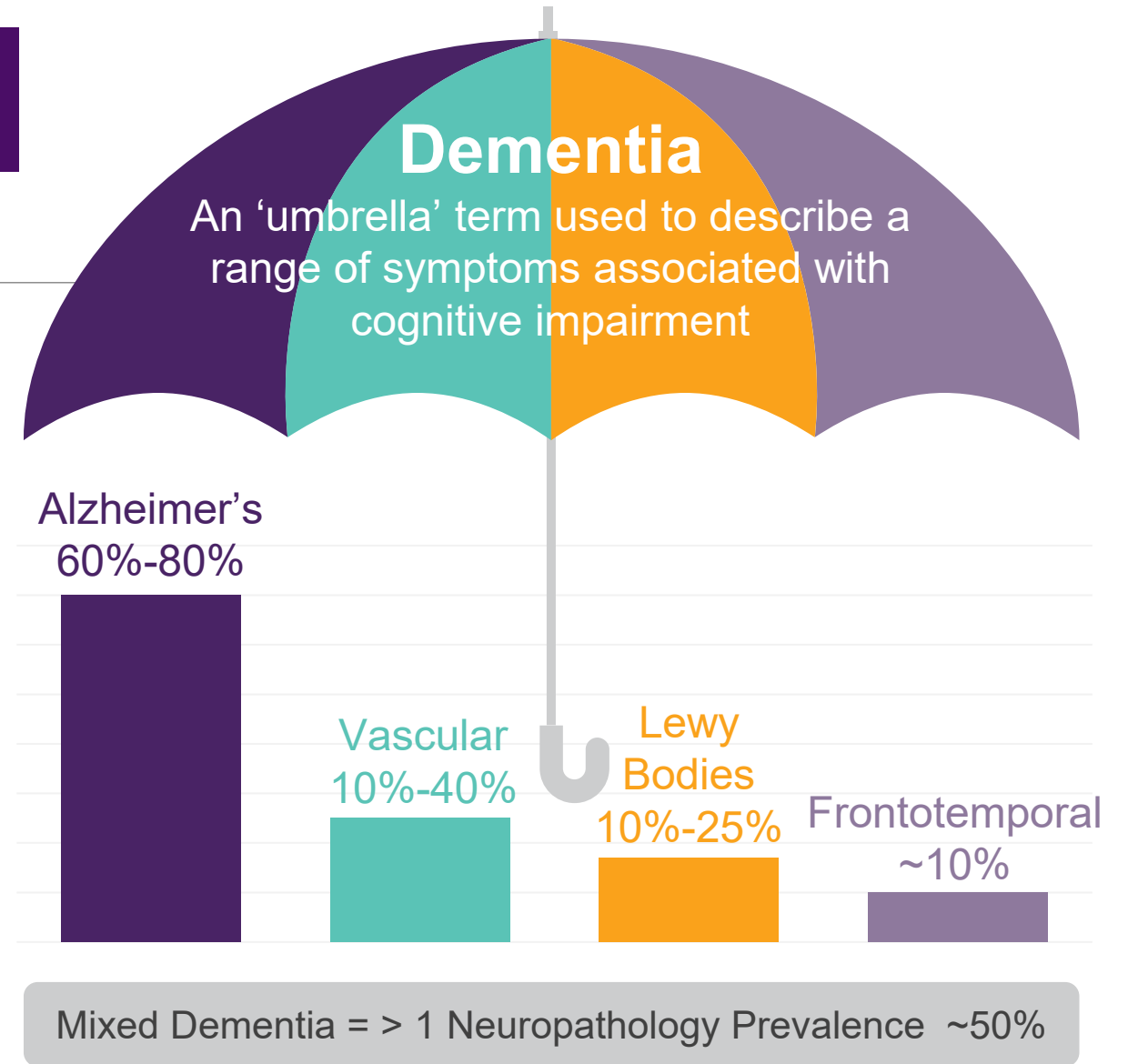
Step 1 of Capacity: Determining Neurocognitive Impairment: Elements of Neuropsychology

Standardized and Systematic
Integration of Cognitive test results with

- Personal history
- Behavior
- Emotions/Awareness
- Medical History
- Collateral resources

DEMENTIA IS A SYNDROME

- Dementia is a collection of symptoms related to cognitive decline
- Can include cognitive, behavioral and psychological symptoms
- Due to biological changes in the brain
- Alzheimer's is most common cause
- Mixed dementia is very prevalent
- Some causes of cognitive decline are reversible and not truly dementia



CONTINUUM OF COGNITIVE IMPAIRMENT

Impairment does not interfere
with activities of daily living

Impairment in two or more cognitive functions
that interfere with activities of daily living



MCI is a known risk factor for dementia

Everyone who experiences dementia passes through MCI

Not everyone with MCI goes on to develop dementia

Self Report: Awareness

Tranel interview:

- ❖ Any changes in your thinking ability
- ❖ Ever confused about where you are
- ❖ Are you having any trouble with your memory
- ❖ Post Test
- ❖ How do you think you did today?

Symptoms of Dementia Screener (SDS) Mundt 2001

Informant questionnaire

11 yes/no questions

No special training needed to administer

Does not require face-to-face administration (could be completed in waiting room, over phone, or by mail)

SDS items 1-6

1. Does he/she often repeat himself/herself or ask the same question over and over?
2. Is he/she more forgetful, that is, have trouble with short-term memory?
3. Does he/she need reminders to do things like chores, shopping, or taking medicine
4. Does he/she forget appointments, family occasions, or holidays?
5. Does he/she seem sad, down in the dumps, or cry more often than in the past?
6. Has he/she started having trouble doing calculations, managing finances, or balancing the checkbook?

SDS items 7-11

7. Has he/she lost interest in his/her usual activities such as hobbies, reading, church, or other social activities?

8. Has he/she started needing help eating, dressing, bathing, or using the bathroom?

9. Has he/she become irritable, agitated, or suspicious or started seeing, hearing, or believing things that are not real?

10. Are there concerns about his/her driving, for example, getting lost or driving unsafely?

11. Does he/she have trouble finding the words he/she wants to say, finishing his/her sentences, or naming people or things?

Four Best Items for Early Detection

Repeated Questions (item 1)

Psychiatric Symptoms (item 8)

Difficulty Driving (item 10)

Short term Memory Problems (item 2)

Cutoff score of 4: 82% PPV, 93.5% NPV

SDS interpretation

Greater number of items endorsed indicates greater likelihood of dementia
5 or more symptoms (Mundt validation study)

- 90% sensitivity

- 85% specificity

Primary care sample (Flaherty et al, 2018)

- 78% sensitivity

- 84% specificity

Assessment of Five Areas of Cognition

1. Attention
2. Language
3. ***Memory***
4. Visuospatial skills
5. ***Executive Functioning***

List A	List B
A 1 2 3 4 5	6
Drum	Desk
Curtain	Ranger
Bell	Bird
Coffee	Shoe
School	Stove
Parent	Mountain
Moon	Glasses
Garden	Towel
Totals	
Intrusions	

List A 15 words total; over 5 trials followed by List B and then 30 minute delayed recall AVL T

Memory Assessment:

Types of memory impairments

Consolidation Deficit: deficient transfer of information from short term to long term storage.

- Little improvement over repeated trials

- Recency effect

- Impaired recognition

Types of memory impairments

Rapid Forgetting:

- Impaired delayed recall.

- Impaired savings scores.

Intrusion Errors: previously learned information intrudes into attempts to learn new information.

Executive Function Testing

Copying alternative diagrams

Complex mental attention

Verbal fluency

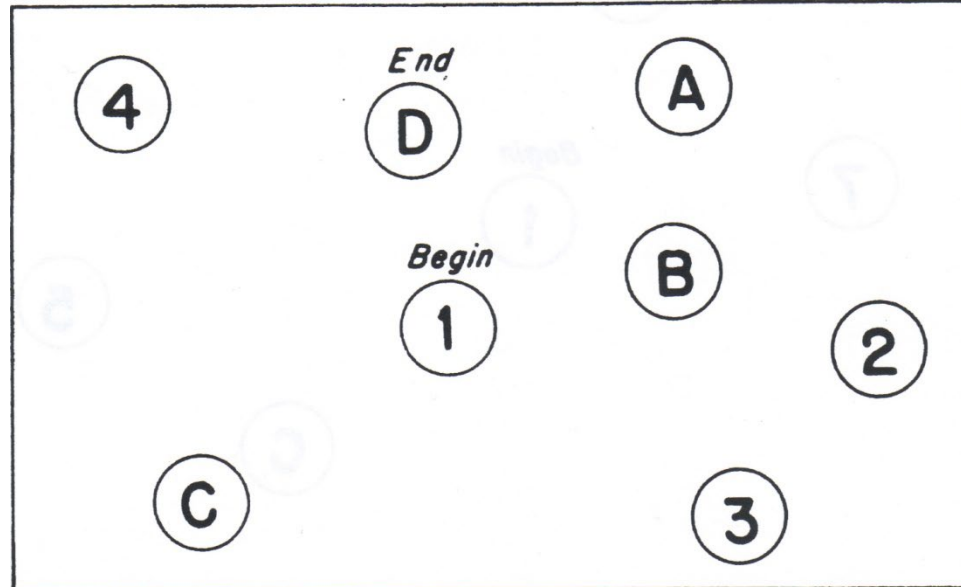
Novel Problem Solving

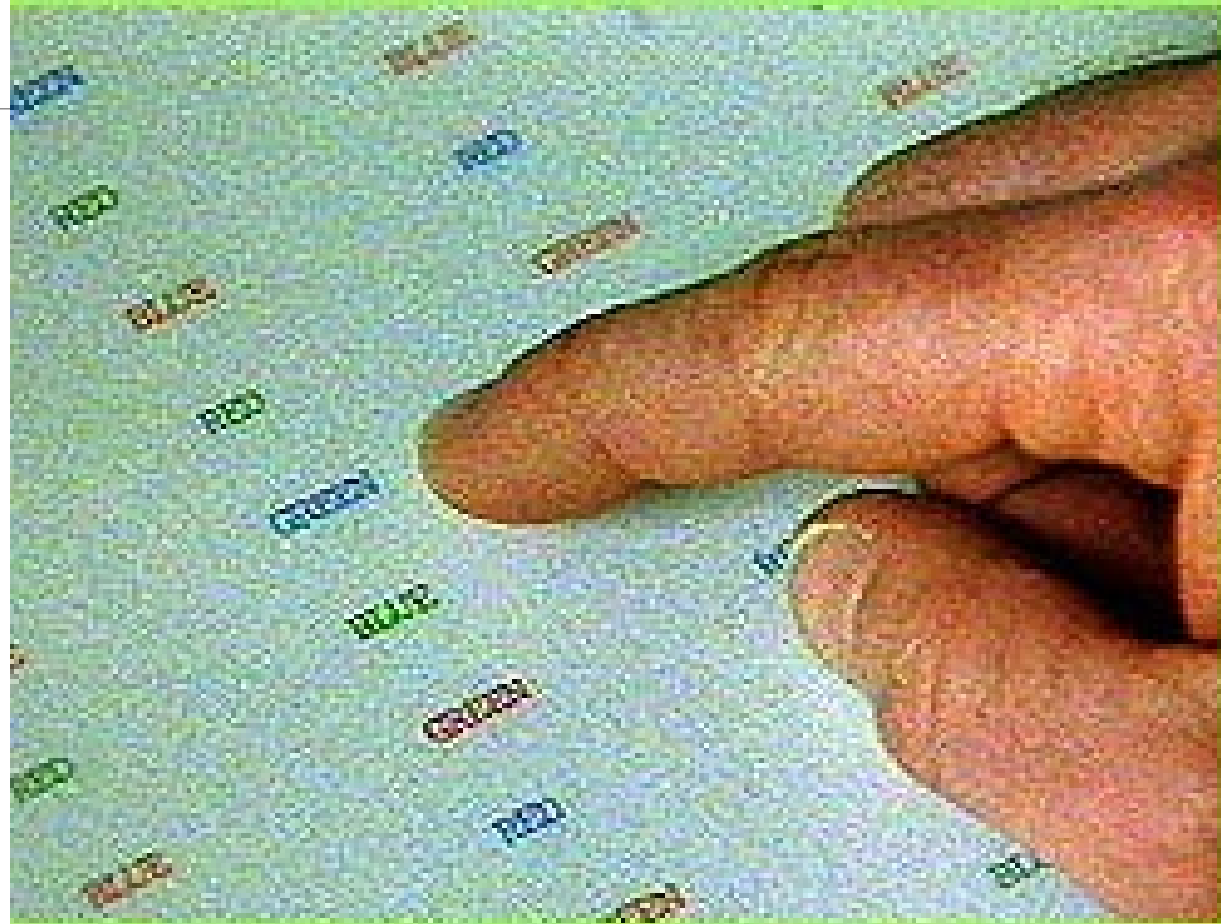
Inhibition

TRAIL MAKING

Part B

SAMPLE







Questions that guide neuropsychological interpretation

1. Is there evidence of cerebral impairment?

- Use of Normative data



Screening tools

MMSE

Clock drawing test

Mini-Cog

MoCA

SLUMS

Symptoms of dementia screener (SDS)

Montreal Cognitive Assessment (MoCA)

Designed to be sensitive to mild cognitive impairment

Emphasis on memory and executive functioning

Score range 0-30

<26 considered a failed screen
<http://www.mocatest.org/>

Normative Data in U.S. Diverse Population CAUTION—FALSE POSITIVES HAPPEN!!!

N=2653:

52% African American; 34% NHW; 11% Latino

Overall score—below cutoff for original norms: 23.4
(4)

66% scoring below suggested cutoff

59% failed Cube; 56% less than 4/5 words; 43%
clock; 40% similarities; 38% Verbal Fluency

Rosetti et al. (2011) *Neurology*

Step 2: Cognitive Strengths and Weaknesses

- What areas are (relative) strengths?
- What areas are (relative) weaknesses?
- Are more than one area of cognition (or cognition and personality change) involved?
- Are findings consistent with health records and/or collateral interviews?
- If there is dementia, what stage would you characterize it?

Stages/progression

Stage 1 – Normal

normal cognitive and IADL functioning

Stage 2 – Subjective memory complaints

Person notices subtle changes in memory/cognition; not noticed by others; normal IADL functioning

Stage 3 – Mild cognitive impairment

Cognitive changes are noticeable in everyday living and on testing; family/friends notice; Maintains relative independence (with compensation)

Based on
FAST stages
by Reisberg
et al, 2011

Stages

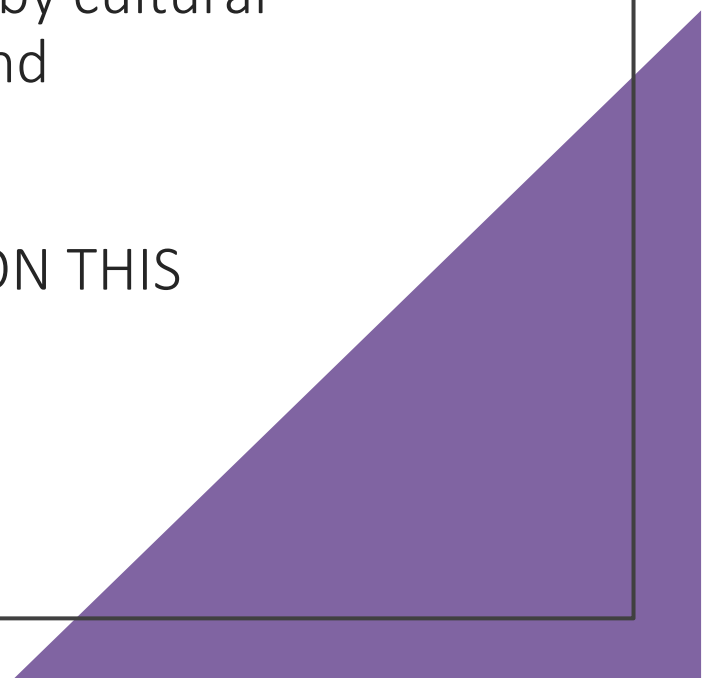
- Stage 4 – Mild dementia
 - Impairment on testing, difficulty in IADLs; needs more help managing finances, medication and travel
 - Recent events often forgotten
- Stage 5 – Moderate dementia
 - Moderate to severe impairment on cognitive testing; loss of independent living without significant assistance; may need cueing for basic ADLs (bathing, dressing)

Neurocognitive Assessment Summary

Test scores are integrated with person's history, medical conditions, education, normative data

Test scores are influenced by cultural factors such as language and education

QUESTIONS/COMMENTS ON THIS SECTION?



Financial Capacity Assessments: Creating and Validating Person-Centered Tools

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INSTITUTE OF GERONTOLOGY

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Clinical Study

Illustrating a Person-Centered Approach to Financial Capacity Evaluations Through a Case Study

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Published online: 31 Jan 2023

 [Download citation](#)

 <https://doi.org/10.1080/07317115.2023.2174059>



Isn't Every Assessment Person Centered?

Person Centered Assessment focuses on actual decisions the older person is making or actual situations they find themselves in.

Person Centered financial management assessment focuses on actual spending the older person is engaging in.



Conservatorship Assessment: Case Study

(Ms. AB)– A 75-year-old woman with a history of mental illness disability and repeated Mild TBI

Brief Background

Referred by current Case Manager (RN)

Prior to work with case manager, Ms. AB not tending to her medical problems (congenital hypothyroidism with history of severe mood swings)

History of several concussions with brief LOC after being rear ended 4 years ago

Neuropsych testing 10 years ago: Average IQ, some memory problems that improved on f/u testing one year later

Not employed in 30 years due to emotional disability (likely both bipolar disorder and schizoaffective disorder)

Acute crisis

- When she suffered from COVID-19, her problem with hoarding intensified to the point that her apartment manager threatened her with eviction. The case was referred to Adult Protective Services. She was assigned a case manager through an Adult Protective Service worker intervening with the apartment manager.
- The case manager helped to get Ms. AB's thyroid condition and symptoms of bipolar disorder treated and under better control. Her symptoms of schizoaffective disorder continued, and the case manager reported that Ms. AB had significant difficulty with frustration tolerance and working constructively with others.
- RESULTED IN GUARDIANSHIP, BUT NO ACTION TAKEN WITH REGARD TO CONSERVATORSHIP AT THE TIME

Legal Issues

- Was on SSI for 26 years
- Sister died and left Trust with other sister as Trustee
- Was assigned a case manager
- Trust paid off \$65,000 credit card debt
- Trust pays rent, medical and spending money of \$2000/month
- After having COVID, APS was called due to self-neglect and hoarding (1 year prior to evaluation)
- Now Conservatorship has been filed by GA and being fought by Ms. M
- Court agreed for me to perform an IME

Neuropsychology Test Highlights

Used Warrington RMT for Faces for Effort testing (43/50)- WNL

WASI- FSIQ 113, VIQ 117, PIQ 106

Logical Memory I SS=2; LMII SS=3 (recalled material originally remembered)

RAVLT: Delayed recall mildly impaired (SS=6) although trial 1 and LOT were unimpaired;

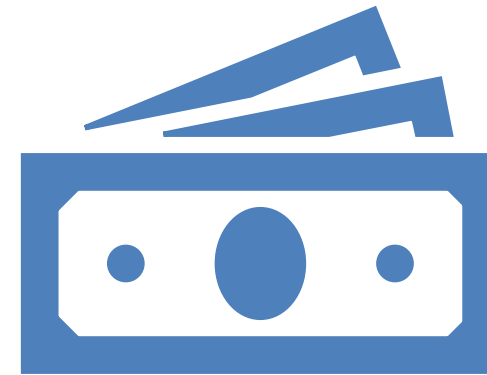
Rey-Osterieth was unimpaired initially and on delay

Trail making (practice effects?) WNL, Stroop WNL

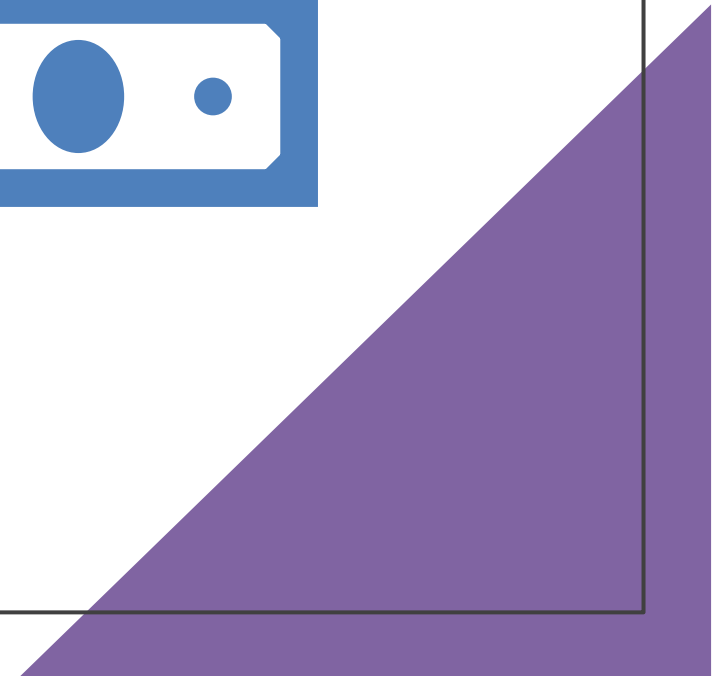
Arithmetic (WRAT-IV) Borderline

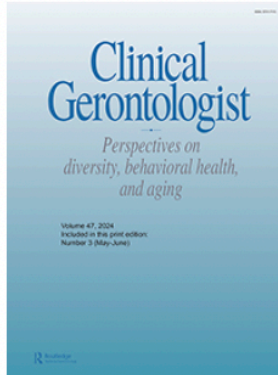
CONCLUSION: SLIGHT EXECUTIVE FX DEFICITS
AND MILD MEMORY PROBLEMS

THE WALLET STUDY



Person Centered Financial Management Study:
Wealth Accumulations and Losses in Early
cognitive Transitions





Clinical Gerontologist

 **Routledge**
Taylor & Francis Group

ISSN: (Print) (Online) Journal homepage: www.tandfonline.com/journals/wcli20

The WALLET Study: Financial Decision Making and Key Financial Behaviors Associated with Excess Spending

Peter A. Lichtenberg, Vanessa Rorai, Emily V. Flores & Wassim Tarraf

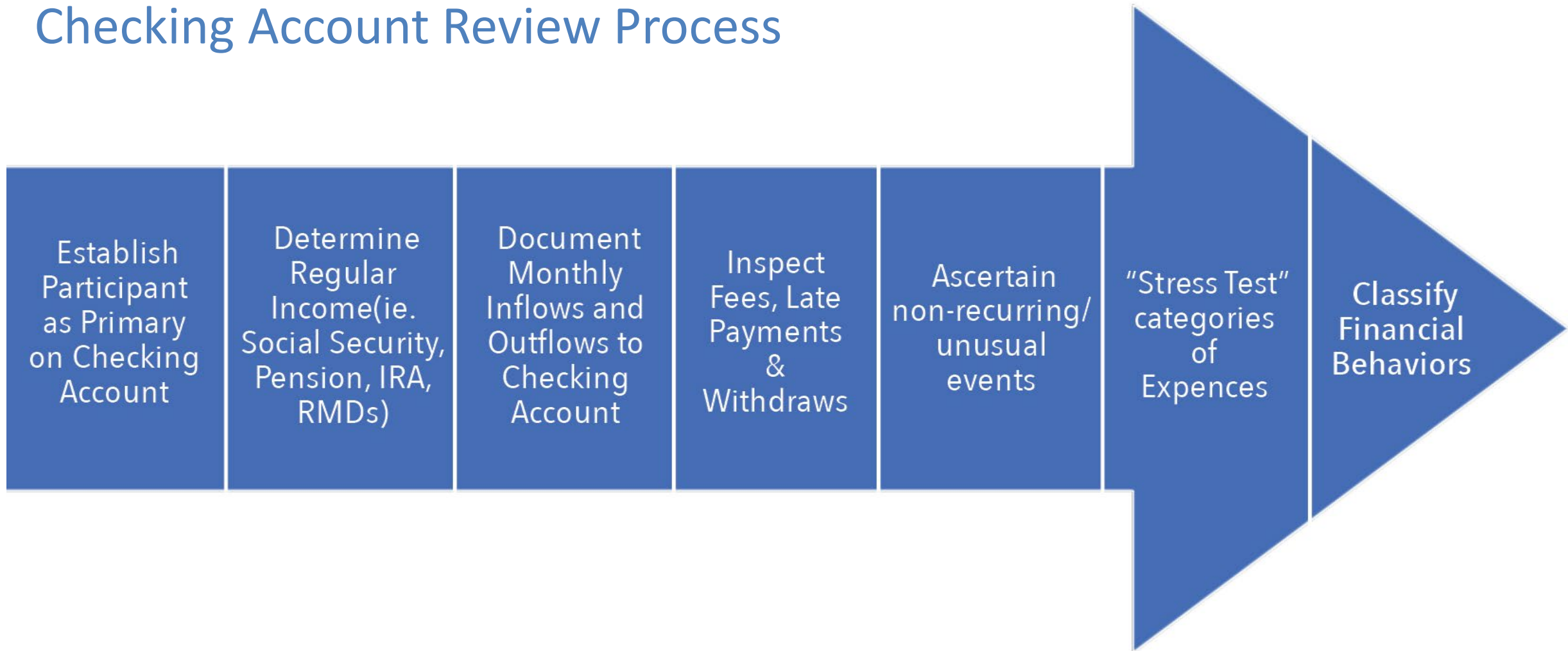
To cite this article: Peter A. Lichtenberg, Vanessa Rorai, Emily V. Flores & Wassim Tarraf (02 May 2024): The WALLET Study: Financial Decision Making and Key Financial Behaviors Associated with Excess Spending, Clinical Gerontologist, DOI: [10.1080/07317115.2024.2348049](https://doi.org/10.1080/07317115.2024.2348049)

To link to this article: <https://doi.org/10.1080/07317115.2024.2348049>



WALLET:

Checking Account Review Process



Assessing Financial Capacity:

LOOKING INSIDE THE CHECKBOOK

Step 1: Confirmed regular income of \$2,000 per month.

Step 2: Reviewed checking account and credit card statements x 9 months and compared to what she was telling me. Very detailed check register and had all credit card statements. *In past 9-months already had 3 new credit cards and \$25,000 of new debt.*

Step 3: Individual purchases that stood out? None

Step 4: Stress tests of categories of expenses. Reported 10% tithe to church, however amount was close to 30% of her \$2000 monthly allotment. Excessive home shopping network amounts.

Step 5: Financial Decision Making: LFDRS: admits to excessive spending, worry about debt, psychological vulnerability around money

Records do not help her compensate—they are overly complex and detailed with no reminders/plans for containing spending

Steps in Assessing Capacity

1. Neurocognitive or mental health impairment?

Ms. AB had a complex mental health disorder with diagnoses of both bipolar disorder and schizoaffective disorder. Superimposed on this was a series of Mild Traumatic Brain Injury experiences. The combination led to some executive functioning and emotion-regulation deficits. Overall, the cognitive deficits were mild, whereas the mental health disorder was at least in the moderate range.

Steps in Assessing Capacity

2. Specific financial management and informed financial decision-making abilities

Deficits were documented in both financial management and informed financial decision-making skills. MS. AB was overspending her monthly income and creating new and significant debt. She grossly underestimated her spending in certain categories. In terms of financial decision-making, Ms. AB demonstrated a lack of appreciation of financial risks (i.e., severe debt) and an understanding of how she spent her income. These were deficits in fundamental aspects of informed decision-making (see, Appelbaum & Grisso, 1988).

Steps in Assessing Capacity

3. Awareness of Deficit and Ability to Compensate

Ms. AB lacked any awareness of her financial management, decision-making, or neurocognitive deficits. In addition, she saw no need to utilize compensatory strategies and instead her solution was to pressure her Trustee to give her more money.

Steps in Assessing Capacity

4. Integration with Legal Standards

the legal standards for meeting the Conservatorship standard are twofold:

- (1) the presence of a neurocognitive condition or mental health disorder that made the person unable to manage her finances and
- (2) the waste/dissipation of assets without proper oversight.

Conclusion

Mental health issues and Executive functioning deficits interfere with ability to manage finances.

Without oversight monies (already are) will be wasted or dissipated due to deficits in financial decision-making and financial management.

Inability to compensate for deficits

Conclusion: Ms. M *does* meet the legal standard for needing a Conservator

Models for Clinical Assessment of Financial Capacity (Marson 2016)

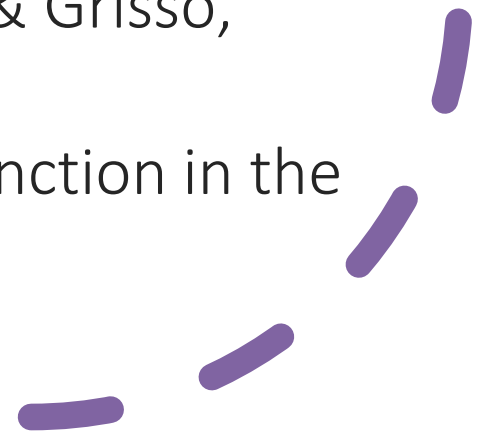
Financial Capacity as an IADL (simple money management)

Financial Capacity as financial skills relevant to independence (E.g. Marson's FCI)—basic and complex, financial execution and judgement.

Cognitive Psychology model—Types of financial knowledge (cognitive underpinnings to financial skills—semantic memory, procedural knowledge, declarative memory, judgement)

Decision-Making Model (Appelbaum & Grisso, Lichtenberg's scales)

IOM: Financial capacity as financial function in the world.





Aging, Neuropsychology, and Cognition
2001, Vol. 8, No. 3, pp. 164–181

1382-5585/01/0803-164\$16.00

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Loss of Financial Competency in Dementia: Conceptual and Empirical Approaches

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University of Alabama at Birmingham, AL, USA

Approaches to Assessing Financial Capacity (Step #2 of Earlier Slides)

○ Marson (2001)

1. **Observational**—Collateral and self-report
2. **Psychometric**—Direct assessment of financial abilities through standardized instrument (e.g. Financial Capacity Instrument)
3. **Clinical Interview**—Directly question person regarding each of 8 domains
4. **Neuropsychological Approach**—Neurocognitive deficits, dementia diagnoses etc.

Table 1. Initial Conceptual Model: Six Domains and 14 Tasks.

	Task description	Task difficulty
Domain 1: Basic monetary skills		
Task 1a Naming coins/currency	Identify specific coins and currency	Simple
Task 1b Coin/currency relationships	Indicate relative monetary values of coins/currency	Simple
Task 1c Counting coins/currency	Accurately count groups of coins and currency	Simple
Domain 2: Financial conceptual knowledge		
Task 2a Define financial concepts	Define a variety of simple financial concepts	Complex
Task 2b Apply financial concepts	Practical applications using financial concepts	Complex
Domain 3: Cash transactions		
Task 3a One item grocery purchase	Enter into simulated 1 item transaction; verify change	Simple
Task 3b Three item grocery purchase	Enter into simulated 3 item transaction; verify change	Complex
Task 3c Change/vending machine	Obtain change for vending machine use; verify change	Complex
Domain 4: Checkbook management		
Task 4a Understand checkbook	Identify and explain parts of check and check register	Simple
Task 4b Use checkbook/register	Enter into simulated transaction; pay by check	Complex
Domain 5: Bank statement management		
Task 5a Understand bank statement	Identify and explain parts of a bank statement	Complex
Task 5b Use bank statement	Identify specific transactions on bank statement	Complex
Domain 6: Financial judgment		
Task 6a Detect fraud risk	Detect and explain risks in mail fraud solicitation	Simple
Task 6b Make investment decision	Understand investment options; make decision	Complex

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Table 2. Revised Conceptual Model: Eight Domains, 19 Tasks, and Overall.

	Task description	Task difficulty
Domain 1: Basic monetary skills		
Task 1a Naming coins/currency	Identify specific coins and currency	Simple
Task 1b Coin/currency relationships	Indicate relative monetary values of coins/currency	Simple
Task 1c Counting coins/currency	Accurately count groups of coins and currency	Simple
Domain 2: Financial conceptual knowledge		
Task 2a Define financial concepts	Define a variety of simple financial concepts	Complex
Task 2b Apply financial concepts	Practical application/computation using concepts	Complex
Domain 3: Cash transactions		
Task 3a One item grocery purchase	Enter into simulated 1 item transaction; verify change	Simple
Task 3b Three item grocery purchase	Enter into simulated 3 item transaction; verify change	Complex
Task 3c Change/vending machine	Obtain change for vending machine use; verify change	Complex
*Task 3d Tipping	Understand tipping convention; calculate/identify tips	Complex
Domain 4: Checkbook management		
Task 4a Understand checkbook	Identify and explain parts of check and check register	Simple
Task 4b Use checkbook/register	Enter into simulated transaction; pay by check	Complex
Domain 5: Bank statement management		
Task 5a Understand bank statement	Identify and explain parts of a bank statement	Complex
Task 5b Use bank statement	Identify specific transactions on bank statement	Complex
Domain 6: Financial judgment		
Task 6a Detect mail fraud risk	Detect and explain risks in mail fraud solicitation	Simple
Task 6b Make investment decision	Understand investment options; make decision	Complex
*Task 6c Detect telephone fraud risk	Detect and explain risks in telephone fraud solicitation	Simple
*Domain 7: Bill payment		
*Task 7a Understand bills	Explain meaning and purpose of bills	Simple
*Task 7b Prioritize bills	Identify overdue utility bill	Simple
*Task 7c Prepare bills for mailing	Prepare simulated bills, checks, envelopes for mailing	Complex
*Domain 8: Knowledge of personal assets/estate arrangements		
Overall financial capacity (overall functioning across domains and tasks)		

* Represents a new FCI task or domain.

Table 6. Capacity Outcomes on FCI-6 Domains for AD Patient Subgroups.

	Capable	Marginally capable	Incapable	<i>p</i> *
Domain 1: Basic monetary skills				.0002
Mild AD patients	53% (16/30)	17% (5/30)	30% (9/30)	
Moderate AD patients	10% (2/20)	0% (0/20)	90% (18/20)	
Domain 2: Financial concepts				.002
Mild AD patients	47% (14/30)	13% (4/30)	40% (12/30)	
Moderate AD patients	5% (1/20)	5% (1/20)	90% (18/20)	
Domain 3: Cash transactions				.0002
Mild AD patients	47% (14/30)	10% (3/30)	43% (13/30)	
Moderate AD patients	0% (0/20)	0% (0/20)	100% (20/20)	
Domain 4: Checkbook / register				.02
Mild AD patients	27% (8/30)	13% (4/30)	60% (18/30)	
Moderate AD patients	0% (0/20)	5% (1/20)	95% (19/20)	
Domain 5: Bank statement				.003
Mild AD patients	27% (8/30)	16% (5/30)	57% (17/30)	
Moderate AD patients	0% (0/20)	0% (0/20)	100% (20/20)	
Domain 6: Financial judgment				.007
Mild AD patients	13% (4/30)	37% (11/30)	50% (15/30)	
Moderate AD patients	0% (0/18)	6% (1/18)	94% (17/18)	

* Significance of difference between dementia subgroup outcomes using Chi square.

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Limits of Marson Approach

1. Overly cognitive—financial decision making is influenced by many other factors
2. Hypothetical financial judgments— little relevance to older adult's experience may over-emphasize deficits

Shivapour et al. 2012— “Critical that instruments be tailored to specific decisions”

New Approach to Conceptualization and Measurement of Financial Decision Making

The Lichtenberg Financial Decision Rating Scale (LFDRS)

Groundbreaking Work of **Appelbaum and Grisso 1988**

Originally for capacity for psychiatric treatment and guardianship, then health decisions

ID 4 aspects of decision making: *Communicating*

1. Choice
2. Understanding
3. Appreciation
4. Reasoning

Using Person-centered Principles for Financial Decision-Making Capacity

- Mast (2011) Whole Person Dementia Assessment approach; integrates person-centered ideas with standardized assessment
- Context matters
- Voice of older adult is critical
- Real life decisions vs vignettes



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Publication details, including instructions for authors and subscription information:

<http://www.tandfonline.com/loi/wcli20>

A Person-Centered Approach to Financial Capacity Assessment: Preliminary Development of a New Rating Scale

Peter A. Lichtenberg PhD, ABPP^a, Jonathan Stoltman MA^a, Lisa J. Ficker PhD^a, Madelyn Iris PhD^b & Benjamin Mast PhD^c

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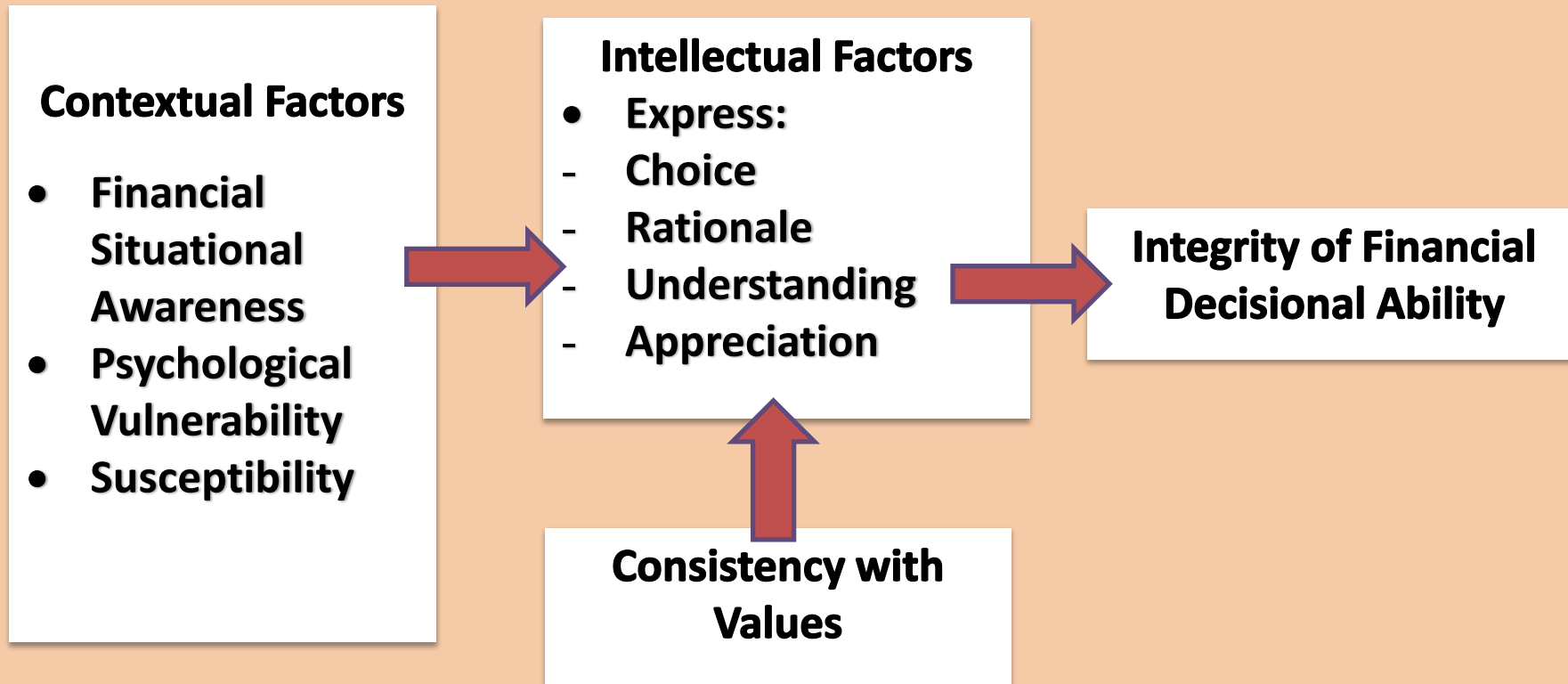
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Accepted author version posted online: 15 Oct 2014. Published online: 13 Jan 2015.

Expert Panelists

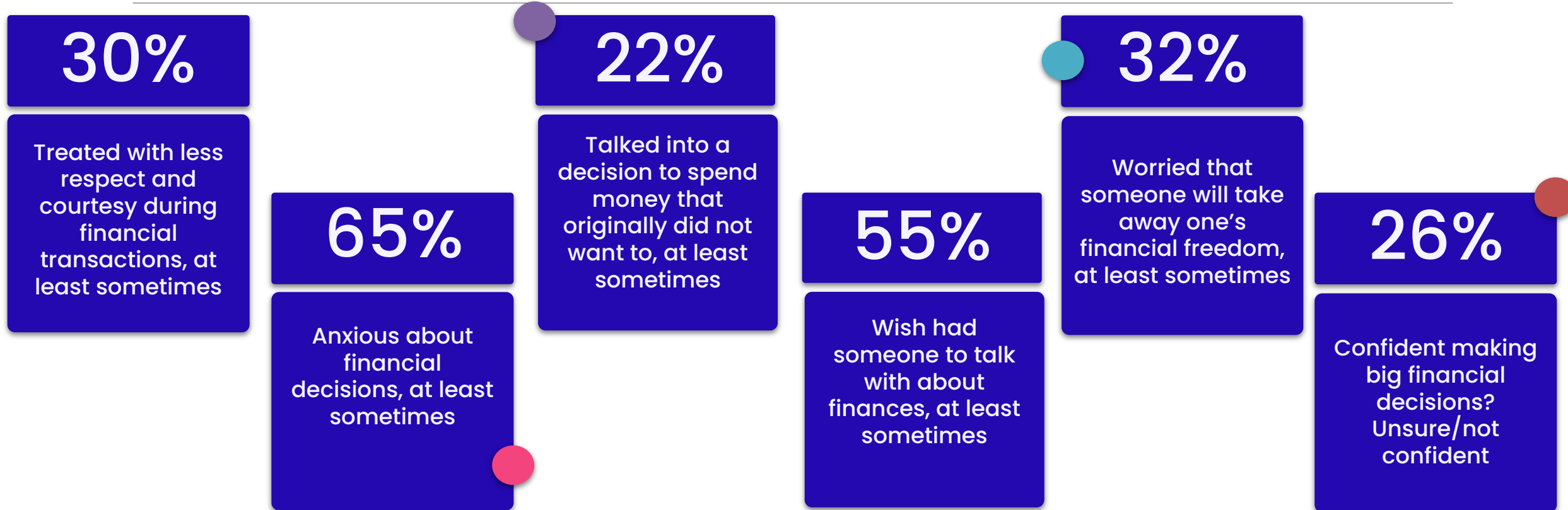
- Using the Concept Mapping Model (Conrad et al., 2010) we then assembled two groups of experts:
 - 6 were engaged in financial-capacity work across the nation and
 - 14 were local and worked directly, on a daily basis, with older adults making sentinel financial decisions and transactions
- Create new conceptual model for FDM
- Create Final list of items for scale

Conceptual Model for the Lichtenberg Financial Decision Rating Scale (LFDERS)



National Data Health and Retirement Study 2018

Lichtenberg, Paulson & Han, (2020) *Innovations in Aging*



Defining Financial Exploitation

Misappropriation or misuse
of the funds of an older and/or
vulnerable adult

Includes fraud, family or friend exploitation,
exploitation by staff or professionals

Financial Exploitation: What Is It?

Six Domains*

*Conrad et al. (2010)

Theft & Scams

Has anyone misused your ATM or credit card?

Abuse of Trust

Has someone convinced you to turn the title of your home over to them?

Financial Entitlement

Has anyone felt entitled to use your money for themselves?

Coercion

Did anyone put pressure on you to get a reverse mortgage?

Signs of Possible Financial Exploitation

Has anyone been frequently asking you for money?

Money Management Difficulties

Older Adults and Vulnerability to Financial Exploitation



- Psychological issues (such as depression)
- Loss of status
- Lower levels of social support
- Cognition

Subjective Cognitive Decline (SCD)

Mild Cognitive Impairment (MCI)

Dementia

- Higher levels of dependency on others for personal care
- Lower levels of financial literacy
- Lack of a trusted advocate

Case Study : Romance Inheritance Scam

82-year-old divorced retiree — net worth \$12M — mostly in properties
Gets tangled in romance scams with “2 different women who want to marry him”
Inheritance Twist: The women need to marry and go to Ireland to receive “their \$15M estate” because
“in their culture only married women can receive inheritance.” Need attorney and other fees
Sends several hundred thousand to “the attorneys”
Drives 1000 miles to look for one of the “wives”
I’m called in to do an evaluation

Case Study cont.

- **Impact:** Failure to pay taxes—about to be foreclosed on, rotted food in fridge, not sleeping, eating, getting calls round the clock
- **Neurocognitive:** Exceptionally smart, high functioning with executive deficits and *paranoia*.
- **Despite intervention by bank, and FBI,** he still believes the women exist and this is a legit enterprise
- **States:** “I am worth several million so let me spend the money the way I want.”

MAYO IQ Adjusted Norms: Romance Inheritance

WRAT-IV Reading	64 SS=114 Avg- Above Average
MAE Aural Comprehension	17 Within Normal Limits
Benton Temporal Orientation Test	0 Within Normal Limits
Animal Naming Test	13 Mild Impairment**
WASI FSIQ	SS=126 96%
VIQ	SS=105 63%**
PIQ	SS=145 99%
WRAT IV Math	SS=122
Benton Visual Form Discrimination	30 SS=11 Within Normal
Hooper Visual Organization Test	25 Within Normal Limits
Boston Naming Test	52 SS=10 Within Normal Limits
Logical Memory I	24 SS=11 Within Normal Limits
Logical Memory II	21 SS=12 Within Normal Limits
Percent retained	82.5% SS=12 Within Normal Limits
Rey AVLT Trial 1	2 SS=5 Mild Impairment**
Rey AVLT Trial B	3 SS=9 Within Normal Limits
Rey AVLT Trial 6	10 SS=13 Above Average
Rey AVLT Learning Over Trials	32 SS=17 Above Average
Trail Making A	61 seconds; SS=6 Mild Impairment**
Trail Making B	99 seconds SS=11—Within Normal Limits
Stroop Word	46 SS=2 Severe Impairment**
Stroop Color	30 SS= 2 Severe Impairment**
Stroop Color/Word	13 SS=2 Severe Impairment**

LFDRS (FVA) Highlights

Q4 What is your primary financial goal for this decision? *Lifestyle (no monetary goal; meet a need or desire)*

Do you agree with the respondent's answer? *No*

Please select what you feel the correct response to be *Earn money (or retain value of investment)*

Please provide input on why you do not agree *He wants control of his money so that he can continue to pursue romance/inheritance*

Q5 How will this decision impact you now and over time?

Improve financial position

Do you agree with the respondent's answer? *No*

Please select what you feel the correct response to be *Negative impact/debt*

Please provide input on why you do not agree *Already a history of losing money*

Q6 How much risk is there to your financial well-being? *Low risk or none*

Do you agree with the respondent's answer? *No*

Please select what you feel the correct response to be *High risk*

LFDRS-SF (FVA) Highlights cont.

Q18 How often do your monthly expenses exceed your regular monthly income? *Some of the time*

Notes: *Last several months during the scam*

Q26 How worried are you that someone will take away your financial freedom? *Very worried*

Q28 As you have grown older, has a relationship with a family member or friend become strained due to finances? *Yes*

Q28 If YES, how strained?

You terminated contact with this person due to problems

Q34 How likely is it that someone now wants to take or use your money without your permission? *Very likely*

Utah Code 75-1-201

Guardianship: Incapacity is demonstrated by an adult's failure to

- receive and evaluate information
- make and communicate decisions
- provide for necessities such as food, shelter, clothing or safety

The code further states that even with appropriate technical assistance the individual lacks the ability to meet essential requirements for financial protection.

Utah Code 75-5-303 Limited Guardian (this is preferred whenever possible)

Utah Code 75-5-401 Conservator is necessary when an individual is unable to manage his or her property.

Summary and Conclusions

In sum, my evaluation of Mr. R revealed the following:

1. His cognitive assessment, combined with his history of physical and behavioral decline are consistent with a diagnosis of Major Neurocognitive Impairment in the Mild Stage. The etiology of these deficits is likely vascular in nature.
2. His cognitive deficits are directly related to his vulnerability to scams. His lack of mental flexibility, over-confidence and failure to be aware of patterns of deceit are entirely consistent with his cognitive deficits in abstract thinking and mental flexibility.
3. Mr. R has a strong desire for personal control, and more, his lack of social outlets leaves him wanting to be a person of great significance in the life of another (e.g. scammers). The need for status and confirmation are important social needs that are largely unfulfilled in Mr. R's life.
4. Mr. R has developed a strong paranoia towards four of his adult children. He communicated that without ever first talking with him about the scams, the family simply went to court to take away his rights. The strength of this belief is more than a disagreement, and not in agreement with the facts.
5. Mr. R is an individual who meets the legal standards for incapacity by virtue of his inability to receive and evaluate information. He demonstrated decisional ability deficits with regard to understanding and appreciation.

In my professional opinion, based upon my own evaluation and the records provided to me, Mr. R is in need of a Limited Guardian and a Conservator. The Limited Guardianship should be protective in nature and include decisions about where Mr. R lives and with who he lives. The Conservatorship should be structured to allow Mr. R discretionary funds and to allow him to be engaged in financial decisions about his properties. Mr. R's monthly expenses (e.g. mortgages, taxes) should be deducted from his monthly income in order to determine his discretionary funds. Given Mr. R's vulnerability it would be wise to not allow any wiring of funds unless his Conservator co-signs. Mr. R's monies should be available for him to live with the comforts he enjoys. Finally, should he sell real estate or otherwise get a large amount of money, no transactions larger than \$5,000 within a one-month period should be allowed without his Conservator's approval. Any disputes between Mr. R and his Conservator on these or other types of transactions should be brought to his court appointed attorney for a final decision.

Lichtenberg Financial Decision Screening Scale (LFDSS)

AKA – “Financial Decision Tracker”(FDT)

www.OlderAdultNestEgg.com

Financial Decision Tracker 10 Questions
© Peter A. Lichtenberg, Ph.D., ABPP, 2014

DATE: _____
AGE: _____
GENDER: _____
EDUCATION: _____

Instruction Reminders

- Choose one decision or one set of decisions
- Read question aloud to client and have client reply
- Narrow answer to a single primary response
- Check box for client response on left, your response on right
- Look for mismatch of client worker response

CLIENT

1. What financial decision are you making or have made?

- ☐ Giving a gift or loan (paying bills or tuition for grandchild, purchase of home for son)
- ☐ Major purchase or sale for self (home, car, renovations, services, investment in LTC or NH)
- ☐ Investment planning (retirement, insurance, portfolio balancing)
- ☐ Estate planning (Will, beneficiary, DPOA, add/remove someone from bank account)
- ☐ Turn over bill paying to someone else
- ☐ Scam, Fraud, Theft (suspected)
- ☐ Other: _____
- ☐ Don't know or inaccurate

WORKER

2. Was this your idea or did someone suggest it or accompany you?

- ☐ My idea
- ☐ Someone else suggested/drove me here
- ☐ Don't know/inaccurate

3. What is the purpose of your decision?

- ☐ Benefit self (meet a need, peace of mind)
- ☐ Benefit family (whom?)
- ☐ Benefit friends (whom?)
- ☐ Benefit organization/charity (which?)
- ☐ Please or satisfy someone else (whom?)
- ☐ Don't know/inaccurate

4. What is your primary financial goal?

- ☐ Earn money (or retain value of investment)
- ☐ Reduce tax burden
- ☐ Reduce debt
- ☐ Affordability of item(s) or service(s)
- ☐ Share my wealth after my death
- ☐ Allow someone else to access my money, finances or accounts (how?)
- ☐ Gift someone or a charity (which?)
- ☐ Lifestyle (no \$\$ goal; meet a need/desire)
- ☐ Other (describe)
- ☐ Don't know/inaccurate

CLIENT

5. How will this decision impact you now and over time?

- ☐ Improve financial position
- ☐ No impact
- ☐ Negative impact/debt
- ☐ Don't know/inaccurate

6. How much risk is there to your financial well-being?

- ☐ Low risk or none
- ☐ Moderate risk
- ☐ High risk
- ☐ Don't know/inaccurate

7. How may someone else be negatively affected?

- ☐ No one will be negatively affected
- ☐ Family members (who and why?)
- ☐ Someone else (who and why?)
- ☐ Charity (which and why?)
- ☐ Don't know/inaccurate

8. Who benefits most from this financial decision?

- ☐ I do
- ☐ Family
- ☐ Friend
- ☐ Caregiver
- ☐ Charity/organization
- ☐ Don't know/inaccurate

9. Does this decision change previous planned gifts or bequests to family, friends, or organizations?

- ☐ No
- ☐ Yes (who and why?)
- ☐ Don't know/inaccurate

10. To what extent did you talk with anyone regarding this decision?

- ☐ Not at all
- ☐ Mentioned it (to whom?)
- ☐ Discussed in depth (with whom?)
- ☐ Don't know/inaccurate

Financial Decision Tracker Rating

- ☐ Major Concern
- ☐ Some Concerns
- ☐ No Concern

Case Outcome

- ☐ Move forward with decision
- ☐ Do NOT move forward

If unsure how to rate answers, refer back to full set of instructions on previous.

Lichtenberg **OLDER ADULT NEST EGG** [Sign Up](#) [Log In](#)

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[Financial Decision Tracker](#) [Financial Vulnerability Assessment](#) [Family & Friends Interview](#)

[Pro Certification](#) [Pro Resources](#)



Financial Decision Tracker

10 QUESTIONS

For professionals who work with older adults making significant financial decisions, including attorneys, financial planners, psychologists, bankers, investment brokers, insurance agents, accountants, law enforcement officers, and Adult Protective Services case workers.

10-item screening questions: Foundational to the Rating Scale

<https://www.OlderAdultNestEgg.com>

Financial Decision Tracker (FDT) - 10 Questions

Approximate time: 10 min. | www.OlderAdultNestEgg.com | © Peter A. Lichtenberg, PhD, 2014

A. Client Name			Consent/Instructions 1. Obtain client's consent to administer FDT interview. 2. Read questions and answers to client as written. Mark only one left circle for your client's response. 3. Mark the response you believe is most accurate in right circle. 4. To support your answers take notes on line provided or back of sheet. 5. Once completed, note each mismatch by marking "Inaccurate" box. For complete instructions visit: www.olderadultnestegg.com
CLIENT ID#	DATE OF BIRTH	AGE	
GENDER	HIGHEST LEVEL OF EDUCATION	RACE/ETHNICITY	
B. Interviewer Name (PRINT)			
INTERVIEWER ID#			SIGNATURE OF INTERVIEWER
DATE			
To receive a Risk Score, you must enter this interview at: www.OlderAdultNestEgg.com			
C. Final Score		D. OlderAdultNestEgg.com Interview #	
☐ No Concerns ☐ Some Concerns ☐ Major Concerns			
CLIENT RESPONSE	INTERVIEWER JUDGMENT	CLIENT RESPONSE	INTERVIEWER JUDGMENT
1. What financial decision are you making or have made?		5. How will this decision impact you now and over time?	
☐ a. Giving a gift or loan (pay bills/tuition for grandchild, purchase home for child)		☐ a. Improve financial position	
☐ b. Major purchase or sale (home, car, renovations, services)		☐ b. No impact	
☐ c. Investment planning (retirement, insurance, portfolio balancing)		☐ c. Negative impact/debt	
☐ d. Estate planning (Will, beneficiary, add/remove someone from bank account)		☐ d. Don't know	
☐ e. Turn over bill paying to someone else		☐ Inaccurate	
☐ f. Scam, fraud, theft (suspected)		6. How much risk is there to your financial well-being?	
☐ g. Other (describe)		☐ a. Low risk or none	
☐ h. Don't know		☐ b. Moderate risk	
☐ Inaccurate		☐ c. High risk	
2. Was this your idea or did someone else suggest it or accompany you?		☐ d. Don't know	
☐ a. Your idea		☐ Inaccurate	
☐ b. Someone suggested/accompanied you (who?)		7. How might someone else be negatively affected?	
☐ c. Don't know		☐ a. No one will be negatively affected	
☐ Inaccurate		☐ b. Family member(s) (who & why?)	
3. What is the primary purpose of your decision?		☐ c. Someone else (who & why?)	
☐ a. Benefit you (meet a need, peace of mind)		☐ d. Charity (which & why?)	
☐ b. Benefit family (who?)		☐ e. Don't know	
☐ c. Benefit friends (who?)		☐ Inaccurate	
☐ d. Benefit organization/charity (which?)		8. Who benefits most from this financial decision?	
☐ e. Please or satisfy someone else (who?)		☐ a. You do	
☐ f. Don't know		☐ b. Family (who?)	
☐ Inaccurate		☐ c. Friend (who?)	
4. What is your primary financial goal for this decision?		☐ d. Caregiver (who?)	
☐ a. Earn money (or retain value of investment)		☐ e. Charity/organization (which?)	
☐ b. Reduce tax burden		☐ f. Don't know	
☐ c. Reduce debt		☐ Inaccurate	
☐ d. Affordability of item(s) or service(s)		9. Does this decision change previous planned gifts or bequests to family, friends, or organizations?	
☐ e. Share wealth after your death		☐ a. No	
☐ f. Allow someone else to access your money, finances or accounts (how?)		☐ b. Yes (who & why?)	
☐ g. Gift someone or a charity (which?)		☐ c. Don't know	
☐ h. Lifestyle (no monetary goal; meet a need/desire)		☐ Inaccurate	
☐ i. Other (describe)		10. To what extent did you talk with anyone regarding this decision?	
☐ j. Don't know		☐ a. Not at all	
☐ Inaccurate		☐ b. Mentioned it (to who?)	
		☐ c. Discussed in depth (with who?)	
		☐ d. Don't know	
		☐ Inaccurate	

FDT contains 10 items

- Must be tied to actual decision or related set of decisions
 - Is a Rating Scale
 - Get trained on <https://olderadultnestegg.com>
- An overall risk score is assigned

Financial Decision Tracker (FDT)

10 items:
Administered in an
interview format

Multiple choice

Focuses on the 4
intellectual factors
and potential for
undue influence

Professional does the
rating on each item
and does not just
record older adult's
responses

Overall judgment
score based in part on
don't know or
inaccurate responses



Interviews tools for establishing baseline assessments and keeping track of your client's financial decisional abilities as they change

CREATE AN ACCOUNT & GET CERTIFIED TO USE TOOLS



Financial Decision Tracker (10 Items)
Financial Vulnerability Survey (17 Questions)
Financial Vulnerability Assessment (34 Questions)
Family & Friends Interview (14 Questions)

USE TOOLS > DOWNLOAD REPORTS > GET NEXT STEPS

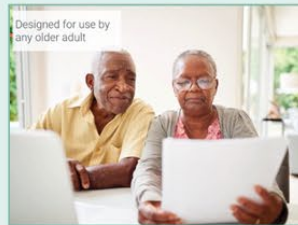
BRIEF VIDEOS SPECIFICALLY FOR:

Mental Health Professionals (5:23 min.)
Health Care Professionals (5:13 min.)
Financial Professionals (5:06 min.)



A New Way for Therapists to Help Clients
A Check-up for Your Patient's Financial Health
Are Your Clients Vulnerable to Financial Fraud?

How we make financial decisions can change as we get older. Our vulnerability survey and financial coaching can help inform and protect older adults

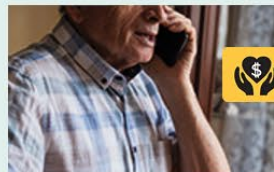


WATCH BRIEF VIDEO

Learn about the nature of the questions of the Vulnerability Survey, what our research tells us, and how it can help now and over time to protect a nest egg.

ANSWER A FEW QUESTIONS

Fill out **Financial Vulnerability Survey** on-line to determine your risk of fraud, scams and financial exploitation. View your rating with next steps and print or save it to your computer. (17 Questions)



Successful Aging thru Financial Empowerment (SAFE) Program

ONE-ON-ONE COUNSELING

Additional SAFE Program Resources

Virtual Events • Financial Guides & Workbooks

SPECIAL SECTION ON BRAIN HEALTH & AGING

Plus, Helpful Organizations, Recommended Reading & Fraud Alerts

We specialize in educating caregivers to handle the critical money issues of the people they care for

LEARN FROM VIDEOS



Detecting Early Cognitive Impairment (20 min.)

Holding Difficult Conversations (20 min.)

Detecting Financial Mismanagement (20 min.)

Managing Someone Else's Money (20 min.)

FILL OUT QUESTIONNAIRE

Family & Friends Questionnaire (14 Questions)



The FFQ can be taken by a trusted friend or relative of an older adult to help assess the older adult's financial decision making.

MORE RESOURCES

Sign up for Caregiver Newsletter • Get Fraud Alerts
 Ask us on Facebook & Helpful Organizations



One-on-One Counseling • Virtual Events
 Financial Guides & Workbooks • Ask us on Facebook

Training



Overview

The Lichtenberg trio of assessment tools is designed to complement and enhance each other. Training is streamlined and straightforward. Regardless of your expertise, we have an assessment and training to help you and your client.

[Start Training](#)



Financial Decision Tracker (LFDSS)

This brief 10-question assessment is the basis to determine how and why the older adult has made a specific financial decision. Easy to administer regardless of professional background.

Complete the Overview training to begin training on the Financial Decision Tracker



Family & Friends Interview

Family & Friends adds information from a trusted third-party to help determine the quality of a client's financial decision making. Easy to administer regardless of professional background. Training to conduct the Financial Decision Tracker is a prerequisite.

Complete both the Overview and the Financial Decision Tracker trainings to begin training on the Family & Friends Interview



Financial Vulnerability Assessment

This in-depth evaluation is best administered by a mental health professional. It includes the Financial Decision Tracker and adds critical contextual factors that impact the integrity of the financial decision.

Complete both the Overview and the Financial Decision Tracker trainings to begin training on the Financial Vulnerability Assessment

Why Evidence-based Tools Are Important

Reliable

Replicable

Efficient

Interviewer Agreement with Risk Score for Overall Sample (N=839)

Table 2. Interviewer Agreement With Risk Score for Overall Sample (*N* = 839)

	Interviewer agreed with FDT risk rating	Interviewer disagreed with FDT risk rating	Interviewer reduced risk rating compared with FDT risk recommendation	Interviewer increased risk rating compared with FDT risk recommen- dation
	<i>n</i>	<i>n</i>	<i>n</i>	<i>n</i>
Cases	773 (92.13%)	66 (7.87%)	31 (3.69%)	35 (4.17%)

Note: FDT = Financial Decision Tracker.

Scam Case from APS FDT 1-2

Q1

What financial decision are you making or have made?

Other (describe) - No money to lend or loan

Do you agree with the respondent's answer

No

Please select what you feel the correct response to be

Scam, fraud, theft (suspected)

Please provide input on why you do not agree

Client is in arrears \$ 24 000 at care facility for non-payment of rent. Involved in an online relationship with a famous music artist who, despite being wealthy, cannot access his funds due to a divorce and requires medical care. Client has transferred \$54 000 out of her accounts to this individual and others. Client is unable to meet her own financial obligations.

Q2

Was this your idea or did someone else suggest it or accompany you?

Your idea

Do you agree with the respondent's answer

No

Please select what you feel the correct response to be

Someone suggested/accompanied you (who?)

Please provide input on why you do not agree

Client was contacted by users on Facebook who requested funds via Apple Cards (client report), possible money transfers and purchase of bitcoin (as per AHS Social Worker). Client acknowledges this is her decision to use her money in this way.

Scam Case

FDT 3-4

Q3

What is the primary purpose of this decision?

Benefit you (meet a need, peace of mind)

Do you agree with the respondent's answer

No

Please select what you feel the correct response to be

Please or satisfy someone else (who?)

Please provide input on why you do not agree

Client expressed she likes the feeling of helping someone and that maybe she was not the same before her surgery. She is grateful to have a charitable outlook. She is unable to recognize that someone else is benefiting financially believing they are using the funds because their own money is unavailable to them and they will reimburse her.

Q4

What is your primary financial goal for this decision?

Other (describe) - Help someone with their medical expenses.

Do you agree with the respondent's answer

Yes

Notes: I believe client wholeheartedly believes she is helping someone in need. She does not recognize this as fraud.

Scam Case

FDT 5-6

Q5

How will this decision impact you now and over time?

Negative impact/debt

Do you agree with the respondent's answer

Yes

Notes: Client did state initially that she will not get the funds back.

Her family thinks the money was spent foolishly. Currently, she is facing eviction from her care facility.

Q6

How much risk is there to your financial well-being?

Moderate risk

Do you agree with the respondent's answer

No

Please select what you feel the correct response to be

High risk

Please provide input on why you do not agree

Client acknowledged that she is going to be taken to court by the facility for non-payment of rent.

That she might go to jail if she does not pay the funds back; added well probably not jail.

Scam Case

FDT 7-8

Q7

How might someone else be negatively affected?

No one will be negatively affected

Do you agree with the respondent's answer

No

Please select what you feel the correct response to be

Family member(s) (who & why?)

Please provide input on why you do not agree

This has resulted in strained relationships with siblings and children. Client believes she is in a romantic relationship and that this man will come to pay her bills and take her to the US with him once his divorce is finalized and he has access to his funds again.

Q8

Who benefits most from this financial decision?

Don't know or inaccurate response

Do you agree with the respondent's answer

No

Please select what you feel the correct response to be

Family (who?)

Please provide input on why you do not agree

The men who have befriended her on facebook are benefiting financially.

Scam Case

FDT 9-10

Q9

**Does this decision change
previous planned gifts or
bequests to family, friends, or
organizations?**

No

Do you agree with the
respondent's answer

Yes

Q10b

Who did you discuss this with?

Mark all that apply:

Family member

Do you agree with the
respondent's answer

Yes

OLDER ADULT NEST EGG DECISIONAL ABILITY SCORE:

Major Concerns

Based on interview, we recommend the decisional ability grade of major concerns for your client's financial decisional abilities to make this decision/transaction.

Risk Rating: Major Concerns FDT=11

11

Your client scored in the high- risk range. The Tracker identified major concerns about your client's ability to make this financial decision.

The decision or transaction should be postponed if possible.

634 INTERVIEWS
by Michigan Adult Protective
Service Caseworkers

*"This gives
my staff a tool—
we have too few
of those"*

*"It helps us
ask all the
questions we
need to"*

*"These
assessments
help me educate
my clients"*

*I was able
to save over
\$1 Million
for a client"*

*It helped me
communicate
with other
professionals*

Insights by Michigan APS caseworkers who used
OlderAdultNestEgg.com evidence-based interview tools

Research Article

Context Matters: Financial, Psychological, and Relationship Insecurity Around Personal Finance Is Associated With Financial Exploitation

Peter A. Lichtenberg, PhD, ABPP,^{1,*} Rebecca Campbell, BA,² LaToya Hall, MSW,¹ and Evan Z. Gross, MA²

¹Department of Psychology, Institute of Gerontology, Wayne State University, Detroit, Michigan. ²Institute of Gerontology and Department of Psychology, Wayne State University, Detroit, Michigan.

Financial Vulnerability Survey (FVS)

Each of us is at some risk of exploitation by financial predators, but some are more vulnerable than others. Our Older Adult Financial Vulnerability Survey can help identify the thoughts and behaviors that can make a person more vulnerable, while providing next steps to navigate identified risks.



Questions 1 - 8

1. How worried are you about having enough money to pay for things?
2. Overall, how satisfied are you with your finances? _____
3. Who manages your money day to day?
4. How satisfied are you with this (money management) arrangement?
5. How confident are you in making big financial decisions?
6. How often do you worry about financial decisions you've recently made?
7. Have you noticed any money taken from your bank account without your permission?
8. How often do your monthly expenses exceed your regular monthly income?

Questions 9 - 14

9. How often do you talk with to visit others on a regular basis?

10. How often do you wish you had someone to talk to about financial decisions, transactions, or plans?

11. How often do you feel anxious about your financial decisions and/or transactions?

12. Do you have a confidante with whom you can discuss anything, including your financial situations and decisions?

13. How often do you feel downhearted or blue about your financial situation or decisions?

14. Are your memory, thinking skills, or ability to reason with regard to financial decisions or financial transactions worse than a year ago?

Questions 15 - 17

15. Has a relationship with a family member or friend become strained due to finances as you have gotten older?

16. Did anyone ever tell you that someone else you know wants to take your money?

17. How likely is it that anyone now wants to take or use your money without your permission?

QUESTIONNAIRE DATE: NOVEMBER 19, 2020

OLDER ADULT NEST EGG FINANCIAL VULNERABILITY SCORE:

Average Exploitation Risk

Your responses show mild to moderate stress in key areas that impact financial decision making. They indicate that you have a mildly increased vulnerability to financial exploitation.

Exploitation Risk Rating:

5

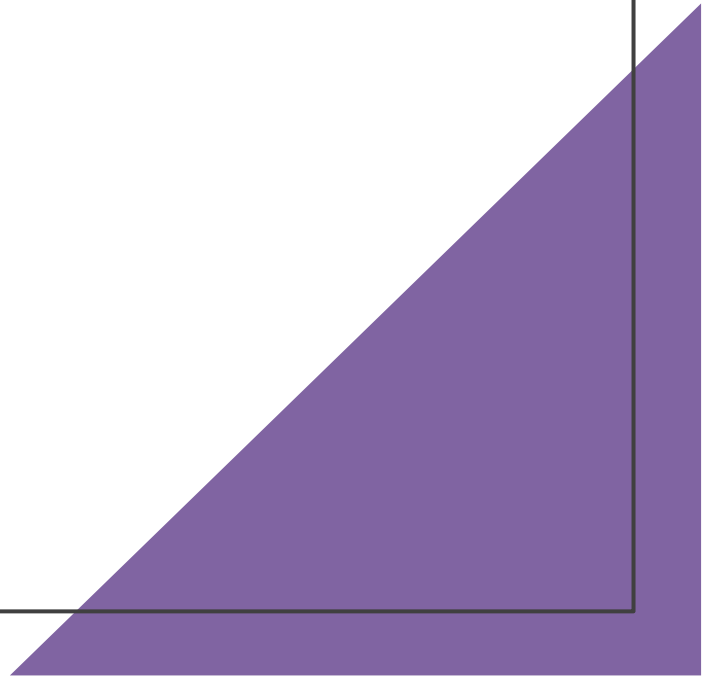
Anyone can be vulnerable to financial exploitation, but some older adults are at increased risk. These questions measure the main stressors that can affect financial vulnerability and risk: daily finances, psychological aspects of finances and financial decision-making, and relationship pressures around finances.

RATING REFERENCE



Family and Friends Interview

A Third party's perspective on an older adult's financial
decision making and context





Journal of Elder Abuse & Neglect

ISSN: 0894-6566 (Print) 1540-4129 (Online) Journal homepage: <https://www.tandfonline.com/loi/wean20>

Assessment of financial decision making: an informant scale

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Case Study:

Family Exploitation case

- 73-year-old man with early dementia
- Lives surrounded by family
- Loaned money to brothers and nieces, but never more than \$3500 and kept careful account
- Brother who lives down the road interacts with him daily
- Man almost a victim of sweepstakes scam but wife alerted brother who deterred it
- Brother takes man to bank, gets man to cash in IRA for \$100K so brother can “pay off his mortgage”
- Prosecutor charges man with unjust enrichment

Legal Statute for Unjust Enrichment: Michigan

MCL 750.174a states:

A person shall not through fraud, deceit, misrepresentation, coercion, or unjust enrichment obtain or use or attempt to obtain or use a vulnerable adult's money or property to directly or indirectly benefit that person knowing or having reason to know the vulnerable adult is a vulnerable adult.

Case Study

- Memory and executive functioning deficits
- 10-item scale: Lack of understanding and appreciation
- Wife takes care of all money and learned of IRA withdrawal only when bank statement came out
- Lack of awareness/minimization of deficits
- Deception, tactics, susceptibility all consistent with undue influence
- My report concludes he is a victim of unjust enrichment by brother

MAYO Norms 76 YO WM College education: Unjust Enrichment Case

WRAT-IV Reading	60 SS=106 Average
MAE Aural Comprehension	15 Mild impairment**
Benton Temporal Orientation Test	0 Within Normal Limits
Animal Naming Test	11 Mild Impairment**
Mattis DRS	107 SS=2 Mod-severe impairment**
DRS Attention	36 SS=12 Within Normal Limits
DRS I/P	22 SS=2 Mod-severe impairment**
DRS Construction	6 SS=10 Within Normal Limits
DRS Conceptualization	29 SS=5 Mild impairment**
DRS Memory	14 SS<2 Mod to severe impairment**
Benton Visual Form Discrimination	31 SS=11 Within Normal Limits
Hooper Visual Organization Test	16.5 Mild impairment**
Boston Naming Test	15 SS<2 Mod-severe impairment**
Logical Memory I	4 SS=3 Moderate impairment**
Logical Memory II	0 SS=2 Mod-Severe impairment**
Trail Making A	54 seconds; SS=8 Within Normal Limits
Trail Making B	300+ seconds SS=2 Mod-severe impairment**
GDS-3	0/3—no depressive sx..
Mundt Family Interview (SDS)	7**

Unjust Enrichment Case Details

LFDSS (FDT)

Q5 How will this decision impact you now and over time?

No impact

- Do you agree with the respondent's answer? *No*
- Please select what you feel the correct response to be
Negative impact/debt

Q6 How much risk is there to your financial well-being?

Low risk or none

- Do you agree with the respondent's answer? *No*
- Please select what you feel the correct response to be
Moderate risk
- Please provide input on why you do not agree
May need services himself

LFDRS-I (FFI)

Q2 Was this decision their idea or did someone else suggest it?

Someone else's idea (describe)

Q3 Now and over time, how do you think this decision or transaction will impact your relative or friend financially?

Will have a major negative impact

Q4 How much risk is there that this decision could result in a negative impact, such as loss of funds?

Moderate risk

Q10 Does your relative or friend regret or worry about a financial decision or transaction they made or intend to make?

Yes (describe) - Very worried about money

Q11 Would others, who know your relative or friend well, say the current major financial decision is unusual for them?

Yes; this could be seen as very unusual

Summary and recommendations:

Mr. J has suffered from memory problems since 2014 and carried a diagnosis of dementia since early 2016, and this dementia is further documented by my evaluation.



Mr. J was unable to make an informed financial decision in giving the gift of \$100,000. He lacked reasoning, understanding and appreciation both in his wife's report and the police description of their interview with Mr. J in 2016, as well as in my assessment.



Mr. J was highly susceptible to influence and being victim of unjust enrichment due to his cognitive difficulties, his lack of decisional abilities and his lack of awareness of deficit.

FDT and FFI: Accepted by the court?

Daubert Standards: 1993 case

Judge is a gatekeeper to rule on reliability and relevance of expert testimony

Online training and certification provides evidence for you to say you have been trained in the use of the tools

FDT-reliable method of assessment, based on long-standing principles of informed decision-making. Validation and cross validation data has been published.

FFI-reliable method of getting third party perceptions. Validity data was published on the FFI.

Section Summary

- Scales complement other assessment in enabling an opinion about financial decision-making capacity.
- Information from the older person and a close informant is often very useful.
- Scales have to be administered accurately.
- Research shows the scales have excellent validity data when compared to the final determinations made by APS workers.



4. Assessment for Undue Influence

Undue influence is influence so great it overpowers the decedent's free will and prevents her from doing as she pleases with her property.

To be “undue,” the influence exerted upon the decedent must be of such a degree that it overpowered the decedent's free choice and caused her to act against her own free will and in accordance with the will of the person who influenced her.

The influence exerted may be by force / threats / flattery / persuasion / fraud / misrepresentation / physical coercion / moral coercion / other.

A will that results from undue influence is a will the decedent would not otherwise have made. It disposes of the decedent's property in a manner different from the disposition the decedent would have made had she been free of such undue influence.

Evidence of Undue Influence

Process not an event; all information relevant to process is allowable.

Undue influence takes place most often out of view and in private.

Power in the relationship and how it changes over time is important to assess

In cases of dementia paranoid ideation often present;
Usually against someone who had a long and close relationship with the older person

Courts have also recognized that there may be a presumption of UI

PROCESS NOT AN EVENT

Must look at the entire picture, not just particular events



Ex: Dr. would you consider episode x and instance of undue influence?



Metaphor: Running for a touchdown or a race... running between the 30-20-yard line is not a touchdown, it is the entire run.



Ans. UI is a process and not an event and you must look at the entire picture.

Undue Influence takes place in private; out of view of others

Courts recognize the need to look at indirect and even hearsay evidence (e.g., emails, texts, journal entries, medical record notes that make a social observation)

Recent case: Medical record note accusing sister of misusing funds—came from the Perpetrator & came 6 months after knowing and signing a legal agreement that sister had not misused funds.

Have to look for a strong pattern of UI to form an opinion more powerful than just saying the person is susceptible to UI

Power in Relationship Changes

Look for new dependency, new POA between victim and perpetrator

Older adult becomes more subservient in the relationship and yields to the perpetrator

Who makes appointments? Who pays the bills? Who communicates with doctor's office, bank, etc.

Paranoia in Dementia



Is there poisoning of the relationship?



Paranoia towards someone once very trusted is common in UI where dementia is present.



Why: People with dementia lose security and often (even w/o any UI) lash out and become suspicious of those they are closest to

Presumption of UI

Fiduciary role (even if not formal)

Opportunity for influence

Benefit or someone/some org. they champion benefits

An attempt to even the evidentiary requirements when there is a question of facts (not summary judgement). Not have as much strength as one would hope. Burden to show UI still on the accuser.



Patterns to look for

- Undue Influence is a “species of fraud”—look for deception/power control issues
 - Presents self as the decision-maker or victim defers to this new decision-maker
 - Initiates appointments to arrange new financial arrangements: Deeds, change of beneficiary, joint accounts, will or trust
 - Isolates the victim from personal supports
 - Actively poisons the relationship between victim and close supports (e.g., “all he wants is your money; he wants to put you in a nursing home”)
 - Deception/Secrecy often is key
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Undue Influence Case Overview—Jury Trial

Mr. S suffered from end stage heart disease and while in Minnesota to receive care at the Mayo clinic (Minnesota is where his son resides and where Mr. S received care for over a decade) fell outside of son's home on July 8, 2019 and suffered a moderate to severe traumatic brain injury. His recovery was hampered by an episode of sepsis, and a subdural hematoma seven weeks after the original injury. Mr. S's condition stabilized upon his return the son's home on October 4th until Mr. S became extremely agitated and aggressive on October 21st. He was hospitalized again on October 21st due to his agitation and aggression. During this October 21st hospitalization the evaluation at Mayo found that Mr. S continued to have significant cognitive deficits and in need of supervised living in the community.



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Case continued

Moved to an ALF in Michigan and was adapting nicely...Abruptly Mr. S moved into the house of a formerly estranged friend, P, on 11-26-2019 and opted out of his hospice care at the same time. Mr. S remained at P's home until his death July 30th, 2020.

In February 2020 Mr. S executed a warranty deed, he ended his annuity contracts from November 2019 through July 2020 (and then made deposits and withdrawals from his bank totaling approximately \$600,000.00 during that period) and in July 2020 he executed a Trust amendment. All of these changes were made to benefit P.



Neuropsychology Record Highlights

Neuropsychological Assessment 11-14-2019:

- ❖ 81-year-old veteran requested evaluation. Provider refused to provide competency assessment but did a clinical evaluation. Mr. S refused to allow provider to speak with his son and refused to speak directly to his son.
- ❖ Discharge summary from Mayo noted episodes of anger and paranoia with son. Mr. S was telling friends in Michigan he was being held against his will and would cut his children out of his will. Considered to have capacity to make medical decisions.
- ❖ Denies having any cognitive problems at this time. Been at ALF for 2 weeks. Ox3; judgment and insight poor. Mood swings and lack of judgement observed by Mayo “consistent with our observations.” Impulsivity noted, angry at evaluator.
- ❖ Testing results and conclusions: Unable to do Trails B or WCST-64. Only recall 3 words after interference on CVLT brief. Poor recognition. Impairments in both executive functioning and memory, rapid rate of forgetting and noted to be “susceptible to believing false information.”

Summary of Early Stages of the UI

Within one month of moving back to Michigan the following was evident:

1. Mr. S's paranoia with his son escalated intensely. P, Instead of seeking to understand the nature of Mr. S's neurocognitive challenges, supported Mr. S's views that "his children were holding him against his will." Mr. S's behavioral change towards his son was witnessed by Mr. S's nurse practitioner while Mr. S was in Minnesota as was his paranoid beliefs about his son.
2. Mr. S's cognitive functioning remained impaired and was consistent with a dementia secondary to TBI. His neuropsychological assessment found him to be significantly impaired in memory and executive functioning, to lack insight to his cognitive problems and to require assistance with IADLs. Multiple professionals including the hospice professionals and the social worker at Assisted Living noted Mr. S to have significant confusion.
3. Mr. S's lack of insight is illustrated by his belief that he was more independent than was the case (i.e. medications) and that he did not sign up for hospice voluntarily (he did have medical decision-making capacity and signed up for hospice services).
4. The power dynamic in Mr. S's relationship with P had totally shifted. From 2011 until the fall of 2019 Mr. S had broken off all contact with P. P now spoke for Mr. S and convinced Mr. S to opt out of hospice services and to visit an attorney to change his will and trust. P also refused to provide the neuropsychological assessment report and bank statements to the APS workers and concealed Mr. S's dependency and cognitive impairment.
5. During this time Mr. S's financial behavior changed dramatically: He withdrew money from an annuity (first withdraw in the decade since opting into the annuity); closed his joint account with Son, created new account and listed a neighbor's address (November 2019).

SCAM Analysis

- Susceptibility
 - Confidential Relationship/Isolation
 - Active Procurement/Tactics
 - Monetary Loss
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My ultimate opinion

In my professional opinion, based on the records reviewed and based on a reasonable degree of certainty, Mr. S was the victim of undue influence by P. The undue influence directly caused Mr. S to change his financial patterns and end his annuity contracts, withdraw hundreds of thousands of dollars, empty out his grandchildren's UTMA-accounts, deed P his property and change his Trust to benefit P. In addition, Mr. Scott's paranoid delusions rendered him incapacitated with regard to his financial decision making after his return to Michigan including his annuity contracts, his Fidelity account and his estate plan changes.

Overall Summary

- Reviewed some core ethical considerations when embarking upon capacity assessments.
- Discussed neuropsychology so as to increase understanding of how neuropsychological evaluations can assist in capacity assessments.
- Examined case studies and person-centered research on financial decision-making, financial exploitation and relation to financial capacity.
- We discussed core issues of undue influence and its assessment
- What did we miss? Questions?