Elder Financial Exploitation

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Overview

• Types and Methods
• Extent and Cost
• Victim & Perpetrator Characteristics
• Risk Factors and Indicators
• Capacity
• Civil Justice
• Criminal Justice
Types and Methods

• Excessive/unreasonable charges/fees
• Failure to provide consideration
• Fraud or misrepresentation
• Identity theft
• Misappropriation of assets
• Misuse of authority by a fiduciary
• “Sweetheart scam”
• Undue influence
Extent & Cost of Problem

- Financial exploitation is increasing
- Prevalence: 1 in 20 (Acierno et al.)
- Largely unreported (NYS prevalence study - 1 in 43.9 cases reported)
- MetLife: National annual losses $2.9 billion
- Utah study: $52 million lost in 2009
- Wyoming study: $200,134 lost in 2009-10
- Studies didn’t assess most vulnerable
Victim & Perpetrator Characteristics

• Victimization likelihood increases with age
• Higher assets don’t increase likelihood
• Females especially vulnerable
• Perpetrators predominantly family
• Perpetrators more likely to be young
Victim Dynamics

- May be unable or reluctant to seek help:
  - Don’t recognize the exploitation
  - Fear disbelief, stigma, or retaliation
  - Dependent on perpetrator
  - Reluctant to get perpetrator in trouble
  - Fear guardianship or placement in LTCF
  - Fear loss of relationships
Risk Factors

• Situations that may enhance abuse risk:
  – Abuser dependency on elder
  – Elder dependency on abuser
  – Elder’s frailty, disability or impairment
  – Elder’s social isolation
  – Either’s substance abuse or mental pathology
Indicators

• Banking inconsistent with ability & history
• Changes to elder’s financial documents
• Forged or suspicious signatures
• Lack of affordable necessities or amenities
• Missing property
• Recent, new best friends or sweethearts
More Indicators

- Isolation by others
- Changes in appearance, mood, habits
- Accompanied by coercive other person
- Missing financial documents
- Doesn’t remember or understand recent transactions
- Voices concern about missing assets
Capacity

• Capacity for financial decisions
  – Will necessitate clinical evaluation
  – Retroactive evaluation may be possible
Civil Justice: Prevention

- Money management services
- Guardianship/conservatorship
- Divorce or legal separation
- Protection/restraining orders
- Injunctions
Civil Justice: Asset Recovery

- Accounting
- Breach of fiduciary duty
- Constructive trusts
- Conversion
- Divestiture
- Fraud
- Rescission
- Restitution
Criminal Justice: Prevention

• Freezing assets pending investigation

• Restraining orders
Criminal Justice: Prosecution

- Embezzlement
- Exploitation
- False Impersonation
- Forgery
- Fraud (credit card, tax, Medicaid, Social Security)
- Larceny
- Money Laundering
- Theft