

# Elder Mistreatment

**Lauren Southerland, MD**  
Assistant Professor  
Director of Geriatric Emergency Care  
Department of Emergency Medicine  
The Ohio State University Wexner Medical Center

**Older adults suffering from elder abuse visit the ED two times a year. (Dong 2013)**

**29% of older adult visits to the ED are for falls (CDC).**



**5 million older adult ED visits a year for injuries. (Betz 2014)**

**Neglect from caregivers is the abuse type most associated with repeat ED visits. (Dong 2013)**

## **MD pitfalls to identifying abuse/neglect:**



- **Preponderance of injuries**
- **Patients unlikely to voluntarily report**
- **Lack of education**
- **Poor documentation**
- **No easy validated screening assessments**
- **Cultural barriers**

## **Your primary care clinic:**



**An older woman who is Mandarin-speaking only has lost 15lbs since her last visit. Family, who are translating, say she just doesn't want to eat anymore and they want to know if she is dying.**

## **Is this patient safe to go back home?**

- **Risk factors for abuse/neglect**
- **Types of mistreatment**
- **Signs of neglect on exam**
- **When should a doctor intervene?**

## **Types of Elder Mistreatment**

- **Physical Abuse**
- **Sexual Abuse or Abusive Sexual Contact**
- **Emotional Abuse**
- **Neglect**
- **Abandonment**
- **Financial Abuse or Exploitation**

- **Physical Abuse occurs when an elder is injured (e.g., scratched, bitten, slapped, pushed, hit, burned, etc.), assaulted or threatened with a weapon (e.g., knife, gun, or other object), or inappropriately restrained.**
  - **5-10% of caregivers of patients with dementia report episodes of physical abuse in anonymous surveys.**

- **Sexual Abuse or Abusive Sexual Contact is any sexual contact against an elder's will. This includes acts in which the elder is unable to understand the act or is unable to communicate. Abusive sexual contact is defined as intentional touching (either directly or through the clothing), of the genitalia, anus, groin, breast, mouth, inner thigh, or buttocks.**

**Psychological or Emotional Abuse**  
Examples include humiliation or embarrassment; controlling behavior (e.g., prohibiting or limiting access to transportation, telephone, money or other resources); social isolation; disregarding or trivializing needs; or damaging or destroying property.



- **Abandonment is the willful desertion of an elderly person by caregiver or other responsible person.**
  - **May be left at a hospital, nursing home, or public location**
  - **Person may appear alone, confused, or wandering.**

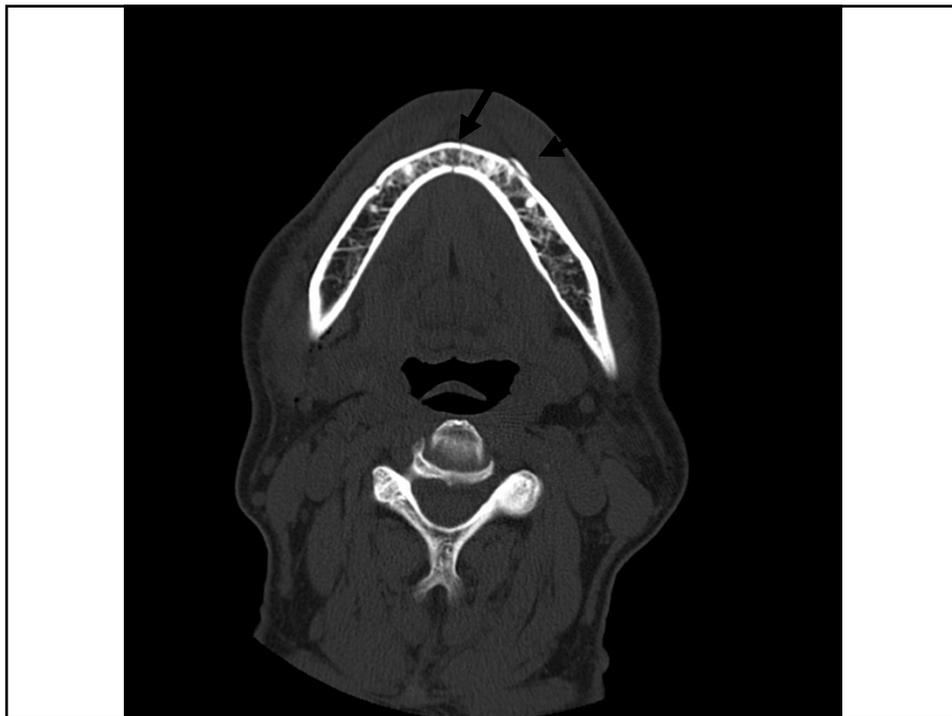
## **In the Emergency Department**

**76-year-old man is brought in by paramedics. He is unaccompanied and disheveled. The medic team says that they found him in a cold apartment with the heat off. The home health worker called 911 because she found him confused and “not acting right.” The patient is not oriented to time or place, and says his name is Frank.**

**In the ED: Patient rewarmed, delirium improved. Admitted for Social worker evaluation.**

- **Financial Abuse or Exploitation is the unauthorized or improper use of the resources of an elder for monetary or personal benefit, profit, or gain. Examples include forgery, misuse or theft of money or possessions; use of coercion or deception to surrender finances or property; or improper use of guardianship or power of attorney.**
  - **Only 1 in 44 cases is every reported**
  - **Affects at least 5% of older adults**

**Neglect is the failure or refusal of a caregiver or other responsible person to provide for an elder's basic physical, emotional, or social needs, or failure to protect them from harm. Examples include not providing adequate nutrition, hygiene, clothing, shelter, or access to necessary health care; or failure to prevent exposure to unsafe activities and environments.**



## **Elder abuse/mistreatment- Effects**

- **Welts, wounds, and injuries (e.g., bruises, lacerations, dental problems, head injuries, broken bones, pressure sores)**
- **Persistent physical pain and soreness**
- **Nutrition and hydration issues**
- **Sleep disturbances**
- **Increased susceptibility to new illnesses (including sexually transmitted diseases)**
- **Exacerbation of preexisting health conditions**
- **Increased risks for premature death**
- **Fear and anxiety reactions, PTSD, and learned helplessness**

<b>Have you relied on people for any of the following: bathing, dressing, shopping, banking, or meals?</b>	Yes	1
	No	0
<b>Has anyone prevented you from getting food, clothes, medication, glasses, hearing aides or medical care, or from being with people you wanted to be with?</b>	Yes	1
	No	0
<b>Have you been upset because someone talked to you in a way that made you feel shamed or threatened?</b>	Yes	1
	No	0
<b>Has anyone tried to force you to sign papers or to use your money against your will?</b>	Yes	0
	No	1
<b>Has anyone made you afraid, touched you in ways that you did not want, or hurt you physically?</b>	Yes	1
	No	0
<b>Doctor: Elder abuse may be associated with findings such as: poor eye contact, withdrawn nature, malnourishment, hygiene issues, cuts, bruises, inappropriate clothing, or medication compliance issues. Did you notice any of these?</b>	Yes	1
	No	0

## **Why do paramedics not report?**

**Reasons for not reporting included**

- 1) unsure which authorities take reports;**
- 2) unclear definitions;**
- 3) unaware of mandatory reporting laws; and**
- 4) lack of anonymity.**
- 5) Ninety-five percent of respondents stated that training related to elder abuse was not available through their EMS agency.**

**Prehosp Disaster Med 1995 Apr-Jun;10(2):96-100.**

## **What can we do to increase detection/reporting?**

- Add a domestic violence/elder mistreatment section to your templates/EMR**
- High suspicion**
- Ask**
- Education of ancillary staff**
- Look up local resources**
- Partner with local agencies to do home visits/check ups**
- Have fliers in your waiting room**



## **PROTECTING THE ELDERLY: LISTEN, DOCUMENT, AND REPORT**

**Kelly C. Patton, Esq.  
Columbus, Ohio**

## **LISTENING**

- **Elders are often very confused when in the ER or Doctor's office**
- **Confusion does not constitute an entirely poor historian**
- **Ask the right questions; sometimes the same question in different ways**
- **Taking time with the Elder is essential**
  - **Gains the Elder's respect: Even persons suffering from moderate to severe dementia know when they are being treated like an object.**
  - **Allows the proper information to be gathered to assist the Elder or prosecute abuses**
  - **Treat the elderly patient like you would treat your parent**

## **DOCUMENTATION**

**Key to getting the correct help for an Elderly Patient and greatly assists in the prosecution of abuse, neglect, and exploitation.**

**Carefully document the following:**

- **Physical injuries**
- **Symptoms reported by the Elder**
- **Mannerisms**
- **Elder's responses to caregivers**
- **Hygiene: recent or long-standing**
- **Infections**
- **Malnutrition/hydration**
- **NOTE: Depending on the severity of the medical condition and/or dementia of the Elderly patient, the information you collect from the Elderly patient could be last valuable piece of information used to prosecute a perpetrator and/or obtain the right help...**

## **DOCUMENTATION CONTINUED**

### **Ask the Elderly Patient:**

- Identifying information should include family members/dynamics, military history, employment history, mental health hospitalizations or community mental health agencies
- With whom does he/she reside?
- Who helps provide care, how often does caregiver help?

Summarize stories told by the Elderly patient that involve recent occurrences even if they seem somewhat unreal.

### **Question Caregivers**

- Refrain from quickly accusing
- Observe interactions between caregiver(s) and the Elder
- Is caregiver/family member(s) avoiding questions or being defensive?
- How is overall health of Caregiver?

## **MANDATORY REPORTING**

Many States have mandatory reporting laws requiring various professionals to report abuse, neglect, and/or exploitation of the Elderly.

Ohio requires reporting of Healthcare, Medical, Dental, and Mental Health Service Providers along with many other professionals.

- Reporting in Franklin County:  
<https://referrals.officeonaging.org>
- In Ohio but outside of Franklin county:  
[www.ohiohopes.org](http://www.ohiohopes.org)

## **MANDATORY REPORTING**

**Be aware of the reporting law in your area: To whom are you required to report and how.**

- **50 states including territories of Guam and Puerto Rico. Check the following National Adult Protective Services Website:  
<http://www.napsa-now.org/wp-content/uploads/2016/05/Mandatory-Reporting-Chart-Updated-December-2015-FINAL.pdf>**
- **Foreign Countries: Start with this website:  
<http://www.inpea.net/> The site is a bit outdated but may be a good start**

## **OTHER GOOD SOURCES**

- ✓ **Local Authorities: Police departments handle crimes involving domestic abuse (Choices in Columbus, Ohio), theft, narcotics**
- ✓ **Domestic Violence Networks in your area**
- ✓ **State Attorney General Offices – Ohio has a department specializing in Elder issues**
- ✓ **Citizen Advocacy Groups**
- ✓ **Office on Aging**
- ✓ **Disability Rights**
- ✓ **Mental Health Boards and/or state Mental Health Ombudsman offices**
- ✓ **Department of Health**
- ✓ **Job and Family Services**
- ✓ **Medicaid Fraud Unit**
- ✓ **Developmental Disabilities Boards**

# NAPSA

<http://www.napsa-now.org/>



Author: CDC/Amanda Mills

## GETTING THE RIGHT HELP

- **Veteran Affairs/Services if the Elder is a Veteran or the Spouse of a Veteran either living or pre-deceased (can help with housing, in-home care, financial assistance)**
- **State and local Area Agency Groups – Columbus, Ohio (Central Ohio Area Agency on Aging) – Can help with in-home care, linkage with other agencies, etc.**
  - **COAAA: [www.coaaa.org](http://www.coaaa.org). Site will translate the information in various languages**
- **Community Resource Groups (can help with housing, in-home care, linkage to various agencies, etc)**
- **Local Police will oftentimes conduct well visits or checks on area Elderly Persons. Will investigate abuse, sexual assault, theft, and other criminal activity or refer to Attorney General.**

## **GETTING THE RIGHT HELP**

- **Ohio Domestic Violence Network:** Will assist and provide safety planning with victim. Will also provide training to medical staff. <http://www.odvn.org/>
- **National Domestic Violence Hotline:** Provides resources for all states. Provides safety planning. <http://www.thehotline.org/>
- **International Directory of Domestic Violence Abuse Agencies:** Link: <http://www.hotpeachpages.net/usa/#>
- **International Network for Prevention of Elder Abuse:** Information about World Elder Abuse Awareness Day and other info. <http://www.inpea.net/weaad.html>

## **GETTING THE RIGHT HELP**

- **Probate Courts –** If the Elder is under guardianship – abuse, neglect, exploitation should be reported to the court along with a report to APS.
- **Mental Health Agencies or local Mental Health Ombudsman** may be helpful if Elder has a mental health issue. Linking the Elder to a mental health outpatient agency may be very helpful regarding medication administration, housing, and in-home care

## **GETTING THE RIGHT HELP...CONTINUED**

- **Ombudsman Resource Centers (State and Local entities) – when reporting abuses and neglect of the Elderly in care facilities**
- **Ohio Guardianship Association:  
<http://guardianshipohio.org/>**
- **National Guardianship Association:  
<http://www.guardianship.org/>**
- **Church and other volunteer groups can provide volunteers and other free assistance**

## **GETTING THE RIGHT HELP...CONTINUED**

- **Non-profit and other private agencies to assist Elder with bill payment and/or payee services. In most instances the Elder must be competent to direct the agency and to sign checks. Examples in Ohio: Catholic Social Services <http://www.colscss.org/senior-support/money-management/> , PHA Financial Advocates: <http://www.phafinancialadvocates.org/>**
- **Attorney referral through the local bar association could aid the Elder in getting advance directives in place. PERSON MUST BE COMPETENT TO EXECUTE AN ADVANCE DIRECTIVE.**

# COAAA

<http://www.coaaa.org/>



Author: CDC/Cade Martin



Author: CDC/Center for Universal Design

## WHAT IF THE ELDERLY PATIENT IS INCOMPETENT?

- (1) Is there an advance directive in place? Healthcare power of attorney is effective upon the patient (principal) lacking the capacity to provide informed consent.
  - (2) Does the patient have a durable financial power of attorney?
  - (3) Does patient have an existing guardian
- If patient is a poor historian, review the probate court website in the county or area wherein the patient resides or call the area court to inquire if a guardianship exists.

## **WHAT IF THE ELDERLY PATIENT IS INCOMPETENT?**

- (4) If no healthcare POA and patient cannot provide informed consent and/or is being financially exploited a temporary or long-term guardianship referral may be necessary.**
- (a) Some states, counties, townships, etc. have public guardianship agencies**
  - (b) Some states, counties, townships, etc. have private guardianship agencies**
  - (c) Some states have volunteer guardianship programs that serve in multiple counties.**
  - (d) Some courts have a guardian referral process**

## **MAKING A GUARDIANSHIP REFERRAL**

**Referrals for a Guardian can be made to State, Private, and Volunteer Guardianship Programs:**

- National Guardianship Association:  
<http://www.guardianship.org/> The website or direct contact may assist you in finding the correct guardianship referral agency in your state.**

## **MAKING A GUARDIANSHIP REFERRAL**

- In Ohio most guardianship programs are volunteer.
  - Exception: Franklin County Guardianship Services Board recently established (non-volunteer entity), referrals are made directly to the Franklin County Probate Court: <https://probate.franklincountyohio.gov>

Ohio Guardianship Association:  
<http://guardianshipohio.org/affiliates/> Lists Guardianships agencies in Ohio. Also has a great link to the Ohio Guardianship Guide by Ohio Attorney General, Mike DeWine

## **UNDERSTANDING GUARDIANSHIPS AND THE PROCESS**

Guardianship laws vary from state to state.

Basically two types of Guardianships:

- (1) Guardian over the person: decisions concerning the individual's medical, placement, and other personal decisions.
- (2) Guardian over the estate: deals with financial decisions (Guardian of the Estate or Conservator– as used in many states). *Note Conservator or a conservatorship in Ohio is in essence a court supervised power of attorney meaning the person is competent)*

## **UNDERSTANDING GUARDIANSHIPS AND THE PROCESS**

*Guardianships are established for only persons who are deemed, by the Court to be incompetent.*

**Probate Court’s Authority over Guardians: “At all times, the probate court is the superior guardian of wards who are subject to its jurisdiction, and all guardians who are subject to the jurisdiction of the court shall obey all orders of the court that concern their wards or guardianships.” (R.C. 2111.50(A)(1)).**

## **Ohio Guardianship Association**

<http://guardianshipohio.org/affiliates/>



Author: CDC/Amanda Mills

**GUARDIANSHIP DEFINITIONS  
(as defined in Ohio)**

**"Incompetent"** means any person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide, or any person confined to a correctional institution within this state.  
2111.01(D)

**GUARDIANSHIP DEFINITIONS  
(as defined in Ohio)**

**Informed Consent:** Defined as a general principle of law wherein a physician discloses to the patient what a reasonably prudent physician exercising reasonable care would disclose to the patient about the nature and risks of a proposed course of treatment, so that the patient may make an intelligent decision about whether or not to undergo the treatment by balancing the probable risks against the probable benefits.

## **GUARDIANSHIP DEFINITIONS**

**Guardian:** “Guardian,” means any person, association, or corporation appointed by the probate court to have the care and management of the person, the estate, or both of an incompetent or minor. When applicable, “guardian” includes, but is not limited to, a limited guardian, an interim guardian, a standby guardian, and an emergency guardian appointed pursuant to division (B) of section 2111.02 of the Revised Code. “Guardian” also includes an agency under contract with the department of mental retardation and developmental disabilities for the provision of protective service under sections 5123.55 to 5123.59 of the Revised Code when appointed by the probate court to have the care and management of the person of an incompetent.

## **GUARDIANSHIP DEFINITIONS**

**Home state:** means the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months immediately before the filing of an application for appointment of a guardian or the issuance of a protective order or, if none, the state in which the respondent was physically present, including any period of temporary absence, for at least six consecutive months ending within the six months prior to the filing of the application.

## **GUARDIANSHIP DEFINITIONS**

**Parens Patriae:** rooted in sixteenth century English common law; in America the parens patriae doctrine is used to afford the court with inherent power to protect those who are believed unable to protect themselves – minors, mentally ill persons, and those who are legally incompetent to handle their affairs.

**Protective Order:** means an order appointing a guardian or other order under division (B)(3) of section 2111.02 of the Revised Code related to the management of an adult's person, property, or both or an order under section 2111.022 of the Revised Code related to the management of an individual's property.

**Significant-connection state:** means a state, other than the home state, with which a respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.

## **GUARDIANSHIPS**

- A. Beginning the Process: File a guardianship application in the court in the county or area wherein the alleged incompetent person resides.**
- B. Application typically must be accompanied by a statement of expert evaluation completed by physician, psychiatrist, or licensed clinical psychologist. Can be the treating doctor or doctor in hospital**
- C. The alleged incompetent will be notified of the guardianship application and of his/her rights.**
- D. The applicant has the burden of proving by clear and convincing evidence that the alleged incompetent person is incompetent and in need of a guardian.**

# GUARDIANSHIPS

## E. Limits:

1. **Scope:** Many laws require that the Court limit the guardianship. Example: medical decisions only, handling only certain accounts, placement decisions only, etc.
2. **Duration:** Court can limit the time of the guardianship

## F. Who can be appointed Guardian?

1. **Competent adult individual.** Some laws require the person be a resident others do not.
2. **Agency**

## Statement of Expert Evaluation

PC-G-17.1A (Rev. 7-2008)

PROBATE COURT OF FRANKLIN COUNTY, OHIO  
ROBERT G. MONTGOMERY, JUDGE

IN THE MATTER OF THE GUARDIANSHIP OF \_\_\_\_\_

CASE NO. \_\_\_\_\_

**STATEMENT OF EXPERT EVALUATION**  
[Sup. R. 66 & R.C. 2111.49]

Definition of Incompetent [O.R.C.2111.01(D)]: "Incompetent" means any person who is so mentally impaired as a result of a mental or physical illness or disability, or mental retardation, or as a result of chronic substance abuse, that the person is incapable of taking proper care of the person's self or property or fails to provide for the person's family or other persons for whom the person is charged by law to provide, or any person confined to a correctional institution within this State."

The Statement of Evaluation does not declare the individual competent or incompetent, but is evidence to be considered by the Court.

The fee for completing this evaluation WILL NOT be paid by the Probate Court. Each evaluator should secure payment from the Applicant/Guardian.

1. This Statement of Expert Evaluation is to be filed with or attached to:
  - A. Guardianship Application: Completed by  Licensed Physician  Licensed Clinical Psychologist prior to the filing and attached to the application.
  - B. Guardian's Report: To be completed by  Licensed Physician  Licensed Clinical Psychologist  Licensed Independent Social Worker  Licensed Professional Clinical Counselor or  Mental Retardation Team. The evaluation or examination shall be completed within three months prior to the date of the Report. O.R.C.2111.49.
  - C. Application for Emergency Guardian:  of the person; a Licensed Physician shall complete the Supplement For Emergency Guardian, Form 17.1B, with specificity indicating the emergency, and why immediate action is required to prevent significant injury to the person. The Supplement shall be signed, dated, and attached as part of this Statement.
2. Statement completed by:  
Name & Title/Profession: \_\_\_\_\_  
Business Address: \_\_\_\_\_  
Business Telephone Number: \_\_\_\_\_
3. Date(s) of evaluation: \_\_\_\_\_  
Place(s) of evaluation: \_\_\_\_\_  
Amount of time spent on evaluation: \_\_\_\_\_  
Length of time individual has been your patient: \_\_\_\_\_

FRANKLIN COUNTY FORM 17.1A - STATEMENT OF EXPERT EVALUATION

# Statement of Expert Evaluation

CASE NO. \_\_\_\_\_

4. Is the individual presently under medication?  Yes  No If yes, what is the medication, dosage, and purpose?  
 \_\_\_\_\_  
 Are there any signs of physical and/or mental impairments caused by the medications themselves?  
 \_\_\_\_\_

5. Is the subject mentally impaired?  Yes  No If yes, indicate the diagnosis below:

Mental Retardation/Developmental Disabilities:  
 Profound  Severe  Moderate  Mild

Mental illness: Type and Severity \_\_\_\_\_

Substance Abuse: Description \_\_\_\_\_

Dementia: Description \_\_\_\_\_

Other: Description \_\_\_\_\_

Please provide additional comments and test scores if available. (Continue comments on page 4):  
 \_\_\_\_\_

6. During the examination did you notice an impairment of the individual's:

a) Orientation	Yes	No	Unknown
b) Speech	Yes	No	Unknown
c) Motor Behavior	Yes	No	Unknown
d) Thought Process	Yes	No	Unknown
e) Affect	Yes	No	Unknown
f) Memory	Yes	No	Unknown
g) Concentration and comprehension	Yes	No	Unknown
h) Judgment	Yes	No	Unknown

7. Please describe any impairments identified in question six. (Continue comments on page 4)  
 \_\_\_\_\_

# Statement of Expert Evaluation

CASE NO. \_\_\_\_\_

8. Is the subject physically impaired?  Yes  No If yes, description:  
 \_\_\_\_\_

9. Are there any special characteristics of the individual which should be considered in evaluating the individual for guardianship?  Yes  No If yes, explain:  
 \_\_\_\_\_

10. Are there any indications of abuse, neglect or exploitation of the individual?  Yes  No  
 If yes, explain: \_\_\_\_\_

11. Do you believe this individual is capable of managing the individual's activities of daily living or making decisions concerning medical treatments, living arrangements and diet?  
 Yes  No  
 If no, explain: \_\_\_\_\_

12. Do you believe this individual is capable of managing the individual's finances and property?  
 Yes  No If no, explain: \_\_\_\_\_

13. Prognosis:  
 A. Is the condition stabilized?  Yes  No  
 B. Is the condition reversible?  Yes  No

14. In my opinion a guardianship should be:  
 Established/Continued  
 Denied/Terminated

I certify that I have evaluated the individual on \_\_\_\_\_, 20\_\_\_\_

Date: \_\_\_\_\_ Signature of Evaluator \_\_\_\_\_

**GUARDIAN'S REPORT ADDENDUM**  
 (Not to be used with Initial Application)

It is my opinion, based upon a reasonable degree of medical or psychological certainty, that the mental capacity of this ward will not improve.

As a result of this statement, the guardian may file a motion to dispense with the filing of future Statements of Expert Evaluation. Refer to Local Court Rule 60.6.

Date: \_\_\_\_\_ Signature - Licensed Physician/Clinical Psychologist \_\_\_\_\_

## **FINAL COMMENTS/SUMMARY**

- **Prosecution of Elder abuse can still be accomplished even when the Elderly patient has dementia or appears to be a poor historian**
- **Get to know your hospital social worker well**
- **If in a family, general practice or clinic atmosphere, promote staff education concerning local senior agencies and advocacy groups and mandatory reporting in the area**
- **Get to know your local authorities and local prosecutor(s); obtain a good contact person**
- **Alzheimer's Association in your area will provide educational seminars and free assessments of homes to ensure Elder is receiving proper care and caregivers understand the best manner in which to provide care. Respite information is also available to assist over-extended caregivers.**

## **FINAL COMMENTS/SUMMARY**

- **Determine if the patient is competent, if yes, a POA, payee service program, or bill payment service may be helpful?**
- **If patient is incompetent, investigate whether a guardianship exists. If no, make a guardianship referral to the local court or guardianship agency.**