

## Insights into Decision-Making Capacity

Virginia Public Guardian & Conservator Program  
2020 Annual Statewide Training  
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### Case Study: Mrs. Hughes

Ms Hughes is presently 89 years old. She earned a Bachelor of Science in nursing and has been married and widowed twice. She has no children and lives alone in a private home. She is independent in all activities of daily living (ADLs) and enjoys church activities and spending time with friends. She drives locally for grocery shopping and appointments and occasionally calls a cab. She eats out several times each week, usually with friends. She denied problems with bowel or bladder incontinence, stated she sleeps well, and denied any recent falls or near falls. She has never used tobacco products and stated she drinks one glass of wine per week. She had previously designated her sister Nan as her durable Power of Attorney (POA) and she has prepared her will. Past medical history includes hypothyroidism and hypertension. She takes no medications with potential to adversely affect cognitive performance.

Approximately 8 months ago, Ms Hughes began a daily relationship by telephone with people who solicited her and whom she has never met. They convinced her she had won a \$1 million lottery prize and a luxury car but she needed to send them money before she could receive her winnings. She also began to receive visits at her door from strangers who told her various tales of woe and asked for money, which Ms Hughes gave them, in cash, often several hundreds of dollars at a time. Since these calls and visits started, Ms Hughes has given away over \$150,000 in cash, constituting approximately 10% of her net worth. She has not received any winnings but continues to receive requests for cash from the callers, which she promptly sends. Her sister Nan became aware of her behavior and insisted she stop. When Ms Hughes became aware Nan was keeping a close eye on her finances, she initiated covert behaviors in an attempt to hide her activities.

Ms Hughes has expressed mixed feelings regarding her behavior, at times acknowledging she was being scammed, yet consistently hanging onto the hope she would eventually receive her prize. Nan contacted a local attorney who filed a Circuit Court petition to have a conservator appointed for Ms Hughes and that hearing is pending. At the attorney's request, the Court issued an injunction restricting Ms Hughes' access to her financial assets without Nan's prior approval. Nan is presently managing all Ms Hughes' financial affairs but the injunction expires in 15 days.

## Evaluation

At the outset, Mrs. Hughes stated, "I've had so many scams...I've lost one hundred and fifty thousand dollars...I had 5 different people coming to my door and they took over fifty-thousand dollars from me." She spoke in a calm deliberate manner without agitation or distress. Ms Hughes appeared younger than her age and moved about her house in a spritely manner. She appeared clean, well groomed, and nicely dressed and she remained alert and pleasantly interactive throughout the evaluation. Voice was clear and vocabulary and usage were appropriate to educational level. Ms Hughes was well oriented to person and place but only partially oriented to time, having doubt about the day of the month and the year. Registration was intact and she accurately recalled 7 of 8 unrelated items at 5 minutes and 6 of the same 8 items 10 minutes after that. She happily recalled many details from throughout her life and spoke loving of her two deceased husbands. She correctly spelled her maiden name forwards and backwards, accurately made change from a dollar in her head, and correctly identified who was buried in Grant's tomb. She could not state any items of current events, explaining she didn't routinely read the paper or watch the news. On request, Mrs. Hughes wrote a simple declarative sentence, accurately copied two intersecting polygons, and completed the Clock Drawing Test without difficulty. She scored 29 out of 30 on the Mini Mental State Examination (MMSE) with a normal score for her age and educational level being  $\geq 26$ . Affect remained calm and pleasant without evidence of anxiety or depression. Thought processes were clear and linear.

When the conversation came to her monetary transactions, she remained fixed on the hope she would eventually receive the prize she had been promised. She spoke openly about her callers and knew them by their presumed first names. She stated someone was going to visit her that day to give her the cash prize then added, "They've said that before but they never come...they always have some excuse." I asked how they learned her address and she replied, "I gave it to them at the beginning. How else could they send me my prize money?" She acknowledged receiving multiple phone calls every day of the week, sometimes as many as 50 calls in one day. Ms Hughes stated, "These scammers are a nightmare and I wish it would end." We discussed actions she could immediately implement to limit her vulnerability, including changing her phone number and allowing her sister to permanently maintain control over her finances. Ms. Hughes listened carefully but expressed doubt and hesitation about doing these things. Her responses did not indicate an appreciation of her financial or personal vulnerability.

- 1. Does Mrs. Hughes manifest cognitive dysfunction?**
- 2. Does Mrs. Hughes meet diagnostic criteria for dementia?**
- 3. Does Mrs. Hughes have intact decision-making capacity?**  
**If not, why not?**
- 4. Should the court appoint a conservator to manage Mrs. Hughes' financial affairs?**  
**If yes, why?**