

Mental Incapacity In Professional Colleagues

Lori Leu, CELA & Mick Koffend, RFG

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FPA Mission Statement

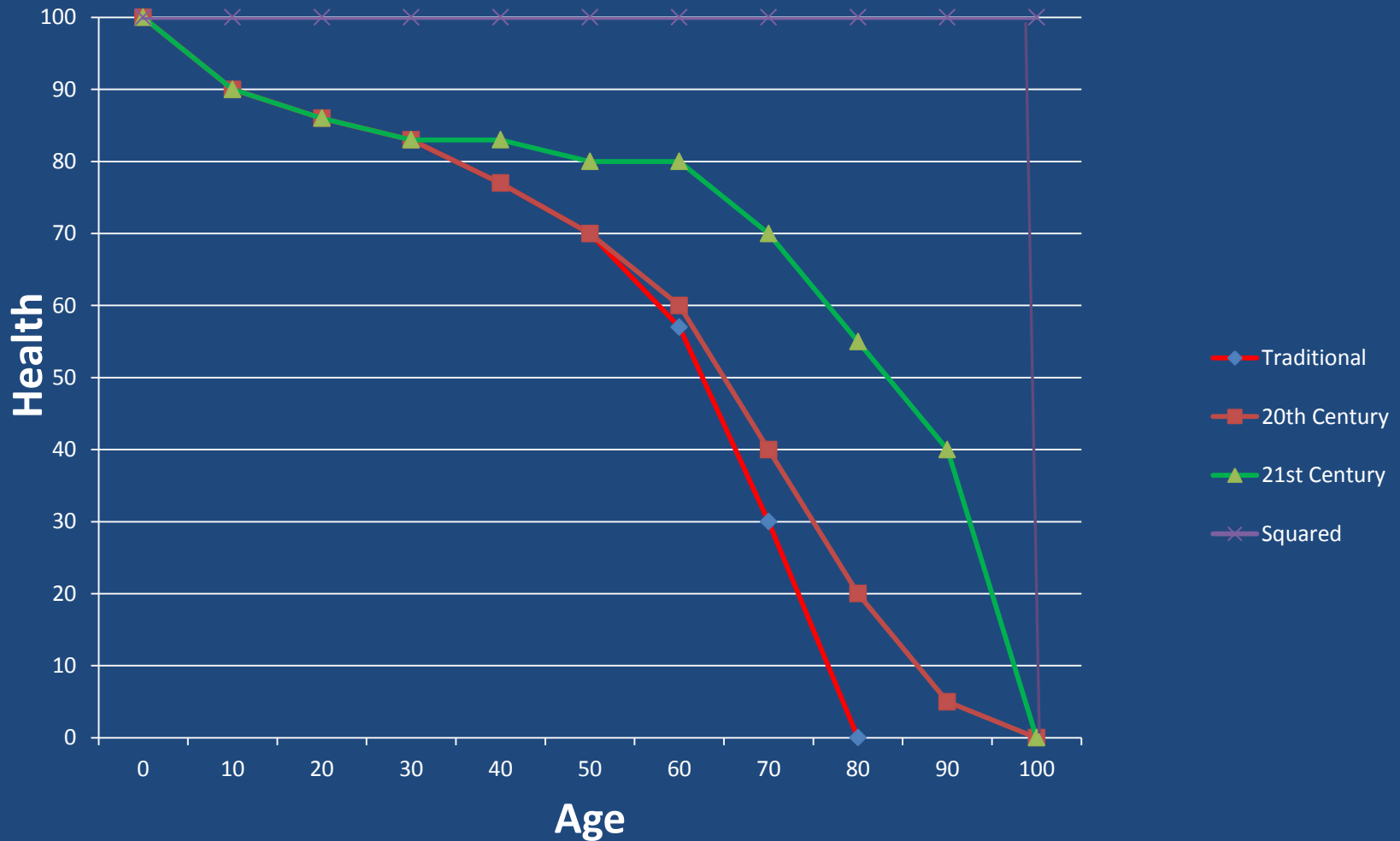
- Ensure standard of excellence in profession of financial planning
- Promote team approach for financial planning professionals
 - Highest standard of ethics
 - Demonstrated professional competence
 - Continued development of knowledge and expertise
 - Responsibility to clients and art/science of financial planning process

Changes In Life Expectancy

	<u>1950</u>	<u>2010</u>
At birth	68.2	78.7
At 65	78.9	84.1
At 75	88.9	94.1

Not Only Longer But Healthier

The Morbidity Curve



Reasons for Delaying Retirement

- Jobs not as physically demanding
- Financial need
- Social connections (replacing small towns)
- Stay mentally and physically healthy
- Live longer and be happier
- Enjoy working

Cognition

- Brain's ability to learn, think, process information
- Risks of cognitive impairment increase with age
 - 13.9% of Americans 71+ have dementia (2007 study)
- Low disclosure rates for dementia (patients told)
 - 45% for Alzheimer's
 - 27% for other dementias
- Alzheimer's statistics
 - 5.3 million Americans have Alzheimer's
 - Starting at 65, risk doubles every 5 years
 - By 85, 25-50% of people exhibit signs

Some Causes Of Cognitive Impairment

- Psychological health
 - Bipolar Disorder
 - Psychosis
- Physical health
 - Brain tumor
 - Traumatic brain injury
 - Chronic Traumatic Encephalopathy (CTE)
 - Other neurological conditions (MS, ALS, etc.)
- Medication-related problems
- Metabolic/Nutritional Deficiencies
- Dementia

Senility

An Antiquated Term!

Types Of Dementia

- Umbrella term for group of >70 cognitive disorders
- Alzheimer's Disease
 - 60% to 80% of cases
 - Loss of memory and executive function
- Vascular Dementia
 - 10% to 30% of cases
 - Occurs from blood vessel blockage or strokes
 - Impaired judgment, ability to make decisions, plan, organize
- Dementia with Lewy Bodies
 - Sleep disturbance, visual hallucinations
 - Difficulty with movement
 - Visuospatial impairment

Types of Dementia, cont.

- Frontotemporal Lobar Degeneration
 - About 10% of cases
 - Marked changes in personality/behavior
 - Affects ability to reason and make decisions
- Mixed Dementia
 - Most often Alzheimer's and Vascular
 - Includes about half of people with dementia
- Several others (Parkinson's Disease, Huntington's Disease, Creutzfeldt-Jakob Disease, Normal Pressure Hydrocephalus)

Executive Functions

- Umbrella term for management of cognitive processes
- Working memory
- Reasoning
- Task flexibility
- Problem solving
- Planning
- Execution

General Professional Certification & Licensing Process

- Take an initial test
- Pay a certification/licensing fee
- Submit renewal application
- Pay renewal fee
- Complete certain number of hours of continuing education

It is possible to renew without disclosing mental incapacity diagnosis!

CFP Board Certification Authority

- Standards of Professional Conduct
- No policy regarding mental incapacity
- Violations of Standards could result in a filing of misconduct
- Disciplinary Process
 - Note not impairment, but bad and wrong

Texas Professional Licensing Authorities, cont.

- Texas State Bar
 - Disciplinary Rules of Professional Conduct
 - Should not represent client if physical, mental or psychological condition materially impairs fitness to represent client
 - Required to inform appropriate disciplinary authority or peer assistance program if substantial questions of lawyer's or judge's fitness
- Texas Lawyers' Assistance Program

Authorities With Programs Distinct From Substance Abuse

Accountancy

- Delaware mentions “mental health”
- Pennsylvania mentions “mental impairment”

Legal

- Model Rules of Professional Conduct – mental impairment does not lessen a lawyer’s obligation to provide clients with competent representation

CFP Board has no mention

Societal Obliviousness

- Credit card companies
- Government agencies
- Banks and other financial institutions
- Laws and regulations
 - Chronically Ill [IRC Sec. 7702B(c)(2)]
 - There's a cure for Alzheimer's Disease - really?

Comedy of Errors Scenario

- Will contest between 2 adult children
- Very large estate with several businesses
- Involves multiple professionals who advised decedent and multiple experts for dispute
 - Financial planners
 - CPAs
 - Business valuation experts
 - Probate litigators
 - Estate planning attorneys

Individual Issues

- Colleague calls you repeatedly to run some ideas past you about a new client, not remembering your prior discussions
- You witness a colleague yelling at a client and calling her names for failing to bring him information she says he didn't request
- Colleague repeatedly discloses confidential client information, even after you point it out

General Issues

- Not all forms of cognitive impairment are permanent
- Must all professionals with cognitive impairment leave the profession?
- Does a duty to report conflict with other duties?
- How do you distinguish incompetence (not good at the job) from cognitive impairment?
- Are there risks to reporting?

What Is A Planner To Do?

- Support
 - Firm
 - Mentor who is “junior assistant”
 - Removal/dismissal
 - Outside colleagues
 - Informal Partner
- Consider consequence of being wrong
 - Trade-off with policy regarding the public good
- Bring in Aging-aware professionals
 - Elder law attorney
 - Care manager