Assessing your client's capacity for informed decision-making REBECCA WERSHBA, PH.D. BOSTON METRO NEUROPSYCHOLOGY, P.C	
Your client, * 85 years old * Enther of four	
Father of four Living with youngest son, John Mr. Jones Mr. Jones has been diagnosed with lung cancer. He is refusing chemotherapy and believes that he will be cured through prayer and clean living. John wants his father to be treated medically, even if it is against his will. Does Mr. Jones have capacity to refuse treatment?	
realment?	
CAPACITY	
CAFACIII	

Ethical principle	es	
Beneficence Promoting and maximizing Nonmaleficence Avoiding actions that coul Justice Treating all individuals fairly characteristics Confidentiality	right to make their own decisions and choices y well-being while minimizing harm Id cause harm or inflict suffering y and equitably regardless of their backgrounds or seeping information confidential	
What is capacity? How is this different from competency?	Testamentary capacity – understand nature of act of making will; nature & extent of property; recognition of natural objects of bounty; distribution scheme Contractual capacity – understand nature & effect of the agreement and business transacted Donative capacity – understand nature and purpose of gift, nature & extent of property given. Medical Decision Capacity Financial capacity – ability to manage financial affairs	
What is undue influence?	▶ When a person is induced to act otherwise than by their own free will or without adequate attention to the consequences ▶ S – Susceptibility factors of the victim ▶ C - Confidential and trusting relationship between victim and perpetrator ▶ A – Active procurement of legal and financial transactions sby perpetrator ▶ M – Monetary loss of the victim	

What can influence capacity or susceptibility?	COGNITIVE factors – attention, memory, speech, comprehension, orientation EMOTIONAL factors – depression, anxiety BEHAVIORAL factors – hallucinations, delusions, paranoia, disinhibition	
Tips for screenin	g	
 ▶ Talk to client *alone* ▶ Meet with them more than o ▶ Speak slowly and clearly ▶ Minimize background noise 	nce	
Screening for co	apacity	
▶ Are they oriented? ▶ Can they appreciate the sitt. ▶ Can they explain their reasor ▶ Can they name pros and co ▶ Is their decision consistent wi	ns of decisions?	

What DOESN'T imply lack of capacity?

- ► Cognitive impairment
- ➤ Decisions you do not agree with even if they are objectively bad decisions

NEUROPSYCHOLOGY

- Intersection between neurology and psychology
- What causes cognitive or psychological problems?
- What factors in the brain or environment cause cognitive problems?
- ► WE ARE PSYCHOLOGISTS FIRST



Neuropsychology domains assessed

Attention

Processing Speed

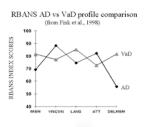
Visuospatial Functioning

Executive Functioning

Verbal Memory

Visual Memory

Emotional Functioning



Mild Cognitive Impairment vs. Dementia	 ► MCI ► Changes in cognitive functioning, greater than expected from normal aging ► Does not interfere with Independent Activities of Daily Living (IADLs) ► Dementia ► PROGRESSIVE DECLINE in cognitive functioning or behavior ► Interference in Independent Activities of Daily Living (IADLs) ► Caused by brain illness 	
Examples of Types of Dementia	 ► Alzheimer's Disease ► Vascular Dementia ► Frontemporal Dementia 	
	▶ Lewy Body Dementia	
Dementia mimics	Delirium TEMPORARY changes in cognitive functioning due to metabolic or infectious disturbance, effects of drugs Characterized by disorientation and sudden changes from baseline Be on guard if diagnosis of dementia happened during a hospitalization or if cognitive changes immediately follow a hospitalization "Psuedodementia" Changes in cognitive functioning due to mood disturbance Be on guard if changes happened following a distressing event, loss of spouse, etc	

ASSESSMENT				
History Demographics Medical History Psychological Fx				
No complications at birth "Average" student Associate degree in business Relired from sales 4 years age Relired from sales 4 years Associate degree. Relired from sales 5 years Associate degree in business Relired from sales 4 years Associate degree in business Relired from sales 4 years Associate degree in business Relired from sales 4 years Associated wither and the specified with a suggestive of mild vacual or disease Meds include lorazepam, omeprazole, lisinopril, traxadone "Always" anxious Uses antitavisty medication Seems depressed since death of wife suggestive of mild vacual or disease. "Always" anxious Uses antitavisty medication Seems depressed since death of wife	n			
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History, cont'd

Substance Use

1 glass wine on occasion

No drugs

No tobacco

Social functioning
Lives with younger son
Meets friends weekly for lunch
Enjoys cards and dominoes

Goes on walks daily

Family history

Mother – died at 87, "old age"

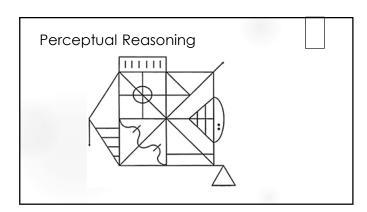
Father – died age 65, cancer

Sister – age 78, dementia

Behavioral Observations	
NEUROPSYCHOLOGICAL TESTING	
Premorbid Functioning • Education level • Occupational Level • Answer: What's the capitol of France? • Pronounce: Gigantic • Define: Parsimonious	

Attention/Working Memory

- ▶ How much information can you hold and manipulate in your mind?
- ▶ Repeat after me: 8630
- ► Repeat backwards: 62472
- ▶ Answer: If Jake bakes 5 pies and Jill bakes 8 more, and then they sell half of the pies, how many pies do they have left?

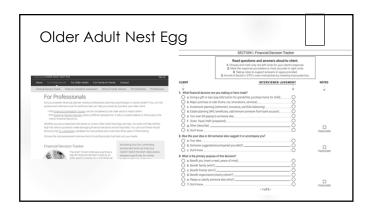


Language	<u> </u>
Name words that start with B Name different types of toys for near stay by step density statistic sist as at www.dwartigraterishints.com	
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Verbal Memory	
Visual Memory	

Executive Functioning	
How are a refrigerator and a stove alike?	
What comes next: 2,2,4,6,10	
Alternate between letters of the alphabet and counting by 3s	
Physical Functioning Finger tapper Hand dynomometer	
Mood Testing	-
Anxiety Depression	
Personality (MMPI, PAI, etc)	

Financial Ability/knowledge ► What's 1.56 + 2.78? ► Write this check for \$258.32 to Sunny's Electric Company ► What is your income? What is your net worth?

Screening for capacity Attorney Assessment Workshell The wedden't favor are an entirely of the Address of Remoted Capacities. The wedden't are the Assessment (Olde Address of Remoted Capacities. The wedden't are an entirely to Assessment of the Address of the Remoted Capacities. The wedden't are an entirely to Assessment on an entirely to Assessment on a control of the Assessment of the	
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Client Bate of Interview	-
Attorney: Place of Interview:	
ASSESSMENT A. OBSERVATIONAL SIGNS De Caralitre Paracticular	
OF OLDER ADULTS Short-term Memory Problems Pegent operation frequently Fegers what in discussed within 15- nings Cannot remember create of gas fee.	
Cannot remember events of past few Language Communication Problems - Difficult findance work forwards'	452
WITH DIMINISHED CAPACITIES * Vagor Ingrapy, Disorganized - Trobb strips on topic - Regress information or reasoning	
Difficulty using phone, email and/or of forms of communication.	AFF
2 nd Edition Comprehension Problems Comprehension Problems Comprehension Problems Difficulty reporting ample concepts Expected questioning	٦
Lack of Montal Flexibility • Difficulty comparing alternatives • Difficulty adjusting to changes	٦
Decretation * Trouble sevigating effect Gen last coming us effect Confident body grant-year lesson Confident body grant-year lesson	
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Documental Understanding of Francis Concepts More difficulty understanding Hand and findingly understanding Hand and findingly understanding Hand and the second second findingly Hand and the second sec	at .



When do you need an outside expert? 1. There is no ar very minimal evidence of diminished capacity; representation can proceed. 2. There are some mild capacity concerns, but they are not substantial concerns, bu	
Referring Options Consultation: A lawyer's conversation with a clinician to discuss concerns about the client's presentation. Consent is not needed because there is no need to use identifying information Referral: A formal referral to a clinician for evaluation, which does require client (or proxy/guardian) consent. May or may not include written report. Can refer to: physician, geriatric psychologist, neuropsychologist, neurologist, multidisciplinary geriatric assessment team	
▶What about Mr. Jones?	

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https://www.olderadultnestegg.com

https://www.apa.org/pi/aging/resources/guides/diminished-capacity.pdf

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