AUTONOMY, CAPACITY AND UNDUE INFLUENCE

Bryan Kemp, Ph.D.
Professor of Medicine and Psychology
Elder Abuse Forensic Center
Program in Geriatrics
University of California, Irvine
School of Medicine

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Two lectures-by-phone took place on July 25, 2006 and August 8, 2006 from the Center of Excellence in Elder Abuse and Neglect at University of California, Irvine, School of Medicine, Program in Geriatrics. Professionals from a variety of fields, including judicial, legal, medical, research, and social services communities, comprised the audience. The lectures were accompanied by PowerPoint presentations (sent by mail for Part I and live online for Part II) and followed with an evaluation sent by email.
Autonomy, Capacity and Undue Influence Training
By Bryan Kemp, Ph.D., University of California, Irvine

Objectives of the Training:

- To bridge ethical, medical and legal views of capacity and autonomy.
- To describe how capacity is assessed.
- To describe various conditions that impair capacity.
- To describe common forms of undue influence.

Part One: The Right to Decide v. Abuse PowerPoint Presentation
Right click to open Read-Only presentation in browser window, or open from "Course Materials" page.

Part One handouts (pdf)

Objectives for Part One:

- To understand capacity definitions
- To be able to list the component skills of capacity
- To be able to list three causes of incapacity

Outline

I. Four concepts are critical to understanding abuse:
   A. Autonomy
   B. Vulnerability
   C. Undue Influence
   D. Capacity: Legal and Psychological Definitions

II. Levels of Decision

III. Conditions that Impair Capacity Under the Law

IV. Assessing Capacity: Three-Step Process
   A. Processing and Thinking Logically in General
   B. Ruling Out (Or In) Other Deficits that Impair Capacity
   C. The Interview: Appreciating This Decision

V. To Prove Abuse Based on Lack of Capacity, “Connect the Dots”

VI. Examples from Abuse Cases
Part Two: Assessing Capacity, Beyond the Basics
Right click to open Read-Only presentation in browser window, or open from "Course Materials" page.

Part Two handouts (pdf)

Objectives for Part Two:

- To describe mental abilities associated with processing information and making decisions
- To match mental abilities with assessment methods
- To describe common cognitive syndromes and the mental abilities they may affect

Outline

I. Cognitive Assessment
   A. Processing Information (Understanding)
   B. Using Information to Make Decisions (Appreciating)
   C. Methods to Assess Capacity

II. Sources of Information to Help Determine Capacity
   A. Where Do You Set the Bar?
   B. Interview Plus Screening Instruments Approach

III. Tips: Focus on the Interview
   A. Function

IV. Limits of the Folstein MMSE and Supplementing with Other Measures

V. Mental Abilities and Where They Fit in the Assessments
   A. A Hierarchical Model of Mental Abilities
   B. How Common Cognitive Syndromes Fit this Model
      i. Delirium
      ii. Dementia
      iii. Focal Cognitive Deficits
      iv. Other Conditions:
         a. Mild Cognitive Impairment
         b. Developmental Disability
         c. Depression
         d. Psychosis

VI. How Do You Determine the Capacity of a Deceased Person?

VII. Case Examples
ABOUT THE LECTURER:
Bryan J. Kemp, Ph.D.

Dr. Kemp obtained his Ph.D. in Clinical Psychology and Aging from the University of Southern California. He has worked in the fields of geriatrics, geriatric mental health and rehabilitation for over 30 years. At the University of California, Irvine he is Professor of Medicine and Psychology, Program in Geriatrics, in the School of Medicine. One of his principal roles in this position is to serve as the medical psychologist for the UCI/Orange County Elder Abuse Forensics Center. Dr. Kemp evaluates referrals to the Forensics Center who are alleged victims of financial, sexual or physical abuse. He has served as an expert witness in many criminal and civil elder abuse cases. He frequently lectures and trains other professionals on the topics of evaluating capacity, causes of vulnerability and elder financial abuse. He has published over 75 articles and reports, several on elder abuse, including one recently published with Laura Mosqueda, M.D. on an empirical framework for evaluating elder financial abuse.