



Neuropsychological Evaluations of Capacity

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Qualifications of Neuropsychologists

- ▶ Doctoral degree in psychology from an accredited university training program
 - ▶ Internship
 - ▶ Equivalent of 2 years in the study and practice of neuropsychology and related neurosciences (one of which at post-doctoral level)
 - ▶ License to practice in his or her state or province or is employed by an exempt agency.
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- ▶ Board certification

Components of Neuropsychological Evaluations

- ▶ Record Review
 - ▶ Medical, psychiatric, legal, etc.
- ▶ Clinical Interview
 - ▶ Collateral interview
- ▶ Cognitive Testing
- ▶ Psychological Testing
- ▶ Performance and Symptom Validity Testing



Neuropsychological Model of Capacity Assessment

- ▶ Input
 - ▶ Understanding a decision needs to be made
- ▶ Computation/Reasoning
 - ▶ Weighing options
- ▶ Output
 - ▶ Communicating decision

The Clinical Interview

- ▶ Appearance
- ▶ Behavior
- ▶ Mood and Affect
- ▶ Speech
- ▶ Thinking
- ▶ Perception
- ▶ Insight
- ▶ Judgment
- ▶ Capacity Assessment
 - ▶ Input
 - ▶ Computation/Reasoning
 - ▶ Output

Cognitive Testing

- ▶ Orientation
 - ▶ Attention and Concentration
 - ▶ Processing Speed
 - ▶ Language
 - ▶ Learning and Memory
 - ▶ Executive Function
 - ▶ Visuospatial abilities
- ▶ Capacity Assessment
 - ▶ Input
 - ▶ Computation/Reasoning
 - ▶ Output

Executive Function

- ▶ Working Memory
 - ▶ Planning/Sequencing
 - ▶ Anticipation of Consequences
 - ▶ Self-monitoring
 - ▶ Self-awareness
 - ▶ Flexibility
 - ▶ Inhibition of Impulses
 - ▶ Insight
 - ▶ Judgement
- ▶ Capacity Assessment
 - ▶ Input
 - ▶ Computation/Reasoning
 - ▶ Output

Psychological Testing

- ▶ Emotion Regulation
- ▶ Personality
- ▶ Mood disorders
- ▶ Thought disorders

Test Examples

- ▶ Wide Range Achievement Test, 5th Edition
 - ▶ Wechsler Adult Intelligence Scale, 4th Edition
 - ▶ Repeatable Battery for the Assessment of Neuropsychological Status (RBANS)
 - ▶ California Verbal Learning Test, 2nd Edition; Hopkins Verbal Learning Test
 - ▶ Neuropsychological Assessment Battery
 - ▶ Wisconsin Card Sorting Test
 - ▶ Geriatric Depression Scale
 - ▶ Minnesota Multiphasic Personality Inventory, 2nd Edition
 - ▶ Texas Functional Living Scale
- ▶ Screeners
 - ▶ MoCA
 - ▶ MMSE

Symptom and Performance Validity

- ▶ Symptom – psychological symptoms
- ▶ Performance – cognitive performance

- ▶ What are we measuring?
 - ▶ Effort
 - ▶ Task Engagement

Issues in Test Interpretation

- ▶ Age
- ▶ Educational achievement
- ▶ Occupational attainment
- ▶ Cultural background
- ▶ Premorbid psychiatric and medical conditions
- ▶ EtOH and other substance use
- ▶ Medication effects
- ▶ Convergence with typical neuropsychological profile
- ▶ Effort and engagement in testing
- ▶ Re-testing

NP Results and Report

- ▶ Interview
- ▶ Behavioral Observations
- ▶ Cognitive Test Data
- ▶ Psych Test Data
- ▶ Individual Factors
- ▶ Relevant Literature



- ▶ Diagnosis
- ▶ Answer to Referral Question
- ▶ Treatment Recommendations
- ▶ Adaptations/Accommodations

Important!

Diagnosis \neq Disability

Important!

Diagnosis \neq Incapacity

Activities of Daily Living and Related Capacities

- ▶ Self-care
- ▶ Financial
- ▶ Medical
- ▶ Home and Community Living
- ▶ Civil or Legal



Activities of Daily Living and Related Capacities

- ▶ **Self-care** → bathing; dressing; toileting
- ▶ **Financial** → using cash, checks, or credit cards; paying bills; making or modifying a will; buying or selling property; entering into a contract; making investments; resisting exploitation or undue influence
- ▶ **Medical** → consenting to treatment; choosing healthcare providers; making or changing an advance directive; managing medications; handling medical emergencies; commitment or discharge from health facility or institution

Activities of Daily Living and Related Capacities

- ▶ **Home and Community Living** → choosing or establishing residence; maintain safe and clean shelter; drive or use public transportation; use mail and telephone (computers); avoid environmental dangers and obtain emergency help; leisure activities; personal relationships including marriage and divorce; religious participation
- ▶ **Civil or Legal** → retain legal counsel; vote; make decisions about legal documents

Guardianship Options

- ▶ Supported Decision Making
 - ▶ Individual remains the primary decision maker with support, guidance, and assistance
- ▶ Limited Guardianship
- ▶ Plenary Guardianship

Project in IL

Examiner	<i>n</i> *	States
Psychologists identified as the sole examiner	23	AZ, CA, CO, GA, HI, IA, KS, ME, MA ^b , MO, NJ, NY, NC ^c , ND, OK, OR ^d , SD, TN, TX ^a , VA, WA, WV, WI
Psychologists accepted if determined to be qualified by the court	14	AL, AK, AR, DC ID, IN ^e , LA, MI, NV, NH ^e , NM, OH, PA, VT
Physician only	8	CT, DE ^f , IL, MT, NE, RI, TX ^a , UT
Psychologists accepted as part of a team	6	DC ^g , FL, MD, MS, NC, SC
Psychologists required as part of a team	2	KY, MA ^b
Insufficient information	5	DE ^f , IN ^e , WY ^h , MN ⁱ , NH ^e

* Total number of jurisdictions across groups will sum to greater than 51.

^a Psychologists are only accepted as sole examiner in cases of intellectual disability. ^b A team is required in cases of intellectual disability. ^c Per author (GJD), psychologists are accepted as sole examiner. ^d Psychological reports accepted as sole source of findings when requested by the court-appointed intermediary. ^e Per phone call, psychologists appear to be acceptable. ^f Only physician accepted per Chancery Court rules, not per statute. ^g A team is required for healthcare decision-making capacity. ^h Per phone call, no examination is required. ⁱ Per Minnesota Conference of Chief Judges, a multidisciplinary team including a physician and psychologist is required.

HB 2593

Illinois Probate Act of 1975 (755 ILCS 5/11a-9)

The petition for adjudication of disability and for appointment of a guardian should be accompanied by a report which contains (1) a description of the nature and type of the respondent's disability and an assessment of how the disability impacts on the ability of the respondent to make decisions or to function independently; (2) an analysis and results of evaluations of the respondent's mental and physical condition and, where appropriate, educational condition, adaptive behavior and social skills, which have been performed within 3 months of the date of the filing of the petition; (3) an opinion as to whether guardianship is needed, the type and scope of the guardianship needed, and the reasons therefor; (4) a recommendation as to the most suitable living arrangement and, where appropriate, treatment or habilitation plan for the respondent and the reasons therefor; (5) the signatures of all persons who performed the evaluations upon which the report is based, one of whom shall be a licensed physician and a statement of the certification, license, or other credentials that qualify the evaluators who prepared the report.

HB 2593

Proposed Language for an Amendment to the Illinois Probate Act of 1975 (755 ILCS 5/11a-9)

The petition for adjudication of disability and for appointment of a guardian should be accompanied by a report which contains (1) a description of the nature and type of the respondent's disability and an assessment of how the disability impacts on the ability of the respondent to make decisions or to function independently; (2) an analysis and results of evaluations of the respondent's mental and physical condition and, where appropriate, educational condition, adaptive behavior and social skills, which have been performed within 3 months of the date of the filing of the petition; (3) an opinion as to whether guardianship is needed, the type and scope of the guardianship needed, and the reasons therefor; (4) a recommendation as to the most suitable living arrangement and, where appropriate, treatment or habilitation plan for the respondent and the reasons therefor; (5) the signatures of all persons who performed the evaluations upon which the report is based, one of whom shall be a licensed physician **unless the evaluation and report are completed by a licensed clinical psychologist and the evaluation is limited to the respondent's mental condition,** and a statement of the certification, license, or other credentials that qualify the evaluators who prepared the report.

For More Information

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