

# Exploring the Relationship between Functional Capacity and Legal Competency in an Elder Law Clinic Setting: A Multifaceted Interdisciplinary Approach

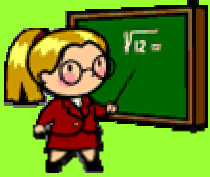
Hugh M. Lee, J.D.

University of Alabama School of Law

Katina Hebert, M.S.

University of Alabama Dept. of Psychology

## Collaboration in Instruction: *Understanding Functional Capacity & Legal Competency*



The University of Alabama (UA) Elder Law Clinic (ELC) consults the UA Department of Psychology on a Health Resources and Services Administration grant entitled, "Training Geropsychologists for an Aging America."

- An ELC attorney serves with psychology, social work, nursing, and other faculty as a member of the training committee responsible for overseeing the grant.
- An ELC attorney assists in developing curriculum, monitoring the educational experience of participating students, occasionally serving on thesis committees.
- An ELC attorney lectures on legal issues relevant to geropsychologists, such as advance planning, competency issues, and the legal ramifications of cognitive decline.
- A geropsychology doctoral student attends weekly lectures and group supervision with law students, providing information regarding clinical assessment of functional capacity and assists the students in evaluating ELC client cases.

## Collaboration in Clinical Practice: *Utilizing Capacity Evaluations in Making Competency Determinations*



The ELC supervises a clinical practicum placement for doctoral students in the Department of Psychology. The primary objective is to use psychological knowledge of older adults to supplement & enhance current legal practice.

- Psychology interns conduct capacity evaluations of ELC clients whose competency is determined to be questionable by an attorney/intern.
- Psychology interns provide written reports on the client's cognitive status and ability to meet legal competency standards.
- Psychology interns consult with ELC attorneys and students, providing recommendations to improve the client's chances of being found legally competent.
- Of the 20 clients referred for formal evaluation, 14 were found to be cognitively impaired. 8 of those 14 failed to meet minimal legal standards of competence.
- Psychological evaluations have increased legal interns' confidence in making competency determinations.

## Collaboration in Research: *Exploring the Relationship Between Functional Capacity & Legal Competency*



The ELC partnered with the UA Department of Psychology on an NIMH research study entitled "Civil Capacity Assessment in Cognitively-Intact Older Adults."

### **Purpose:**

- To study the relationship between medical and financial decision-making
- To identify neurocognitive predictors of competency performance

### **Method:**

- Screened 32 ELC clients for dementia, using the Telephone Interview for Cognitive Status (TICS-m)
- In-depth psychological testing was conducted with clients exhibiting no cognitive impairment

### **Results:**

- A significant percentage (34%) of the random population showed impairment
- Testing of cognitively intact clients revealed no significant association between medical and financial decision-making
- Suggests that the ability to make medical and financial decisions are affected differently by normal aging as well as dementia
- Suggests that elder law practitioners may have a higher % of impaired clients than expected, but that the use of psychological experts may help to more precisely identify relative competencies