The Intersection of Geriatric and Forensic Psychiatry


This article reviews a wide array of medicolegal, risk management, regulatory, and forensic mental health issues in the older population, which is growing at an accelerated rate.

The older population in the US is growing at an accelerated rate, which is due, in part, to aging baby boomers. It is estimated that by 2050, the population of those age 65 and older will reach approximately 83.7 million people, almost double that of 43.1 million in 2012. In parallel with this population growth, a wide array of medicolegal, risk management, regulatory, and forensic mental health issues will take on increasing importance, some having particular significance in the elderly population. This article reviews some of the many important topics at the intersection of geriatric and forensic psychiatry.

Neuropsychiatric assessment

© Aleksei Potov/shutterstock.com The clinical assessment is usually linked to forensic issues or questions. In relation to cases involving the elderly, several factors that may have an impact on thinking, mood, behavior, and cognition need to be considered. Comorbid medical and neurological conditions, polypharmacy, problems with sensory input, and focal cognitive deficits can all affect the mental state examination and need to be taken into consideration. A review of collateral psychiatric, medical, and neurological records is also a critical part of a thorough assessment.

Medical and neurological examinations, laboratory evaluation, brain imaging, and neuropsychological testing may all provide essential information linked to the forensic question. For example, in an elderly patient with cognitive impairment who is being assessed for decision-making ability, differentiating focal deficits from global impairment and progressive cognitive deterioration from reversible deficits may be central to issues that involve different forms of capacity and competency, safety, and advanced planning.

Capacity to make informed treatment decisions

Assessment of an elderly patient’s ability to make informed decisions about his or her health care usually involves a process of evaluation over a period of time. One model of the assessment of capacity involves the examination of 4 functional areas:

- The ability to communicate a stable choice
- The ability to understand relevant factual information within the context of the treatment decision
- The ability to appreciate how the situation and outcome affect one’s personal life
- The ability to weigh the risks and benefits of options in the process of making a decision

The informed consent process requires additional measures after the determination of capacity. Questions about a patient’s ability to make decisions regarding evaluations and treatment can arise in various situations, including acute medical and surgical settings, psychiatric settings, with a primary care physician, and at nursing and assisted-living facilities. Of particular importance in the elderly population, capacity related to decisions about treatment and other types of capacity may be fluid and subject to change over time. Variables such as age, educational level, and cognition are significant to the assessment; in particular, there is a correlation between cognitive state and degree of deficits and capacity to make decisions about treatment.
Results from a study that compared cognitive screening instruments in relation to capacity to make informed treatment decisions showed that a test of executive functioning was superior to a global cognitive screen. A thorough assessment of an elderly patient’s ability regarding medical decision making involves a multifaceted approach, including repeat assessments, education to teach a patient factual information about which decisions need to be made, and consideration of variables such as cognition, medical comorbidity, current medications, visual and auditory sensory deficits, educational background, and psychiatric state. The potential risks and benefits of a procedure or treatment also need to be factored into the assessment, because this will relate to the appropriate threshold for capacity. For example, a complete blood cell count may be low risk and high benefit, compared with a novel treatment with high risk and limited benefit—the latter scenario requires a higher threshold of decision-making capacity.

**Informed consent**

A patient’s ability to give informed consent is based on 3 supporting concepts: information, voluntariness, and capacity. Analogous to a tripod, all 3 of these components need to be present in order for a patient to meaningfully give consent in the clinical setting. In the elderly patient, it is particularly relevant to examine each of these components. In addition, the concept of voluntariness needs to be considered, given concerns for vulnerability in the elderly to excessive or inappropriate influences from others, including family and friends. One important aspect to this process is communication between physician and patient, in a shared decision-making framework, in which the physician can confirm patient comprehension and take into account factors that may impede comprehension, including coexisting disabilities (eg, cognitive, visual), level of education, and personality. A study that examined capacity to consent to research in the elderly assessed comprehension, quality of reasoning, and making a reasonable choice. Elderly patients did not differ from younger patients in making a reasonable choice but had poorer comprehension ability. The results of this study stress the importance of screening for competency and providing additional instructions in elderly patients. The Comprehensive Geriatric Assessment is an instrument that can assist in the informed consent evaluation process. It measures capacities such as functional state, cognitive status, social support, and advance care preferences.

**Testamentary capacity**

Testamentary capacity refers to the advanced planning ability to make or change a will, an estate plan, or decisions about finances; it is similar in concept to other types of capacity or competency. Assessment can include the same framework of functional areas or standards described above for capacity to make treatment decisions, but the focus is specifically on the person’s (testator’s) knowledge of the extent and value of his or her property, who the natural heirs are, and how the distribution is being applied. A challenge to testamentary capacity usually comes when a relative or heir feels he or she did not receive what was deserved. The significance of the concept of testamentary capacity is based on societal need to protect vulnerable older people from abuse. Related to testamentary capacity is the issue of undue influence, whereby a person or system exerts authority over a vulnerable individual, which may then affect that person’s decision making regarding property and finances. Numerous risk factors have been described, which may help in the risk assessment for undue influence and vulnerability, including dependency, isolation, physical disability, family conflicts, mental disorders, and wills containing provisions that seem inconsistent with the testator’s previous wishes or beliefs.

**Advanced planning and end-of-life decisions**

Advanced planning involves decision making and documentation prepared while the patient has intact capacity, which provides for future instructions should the patient become incapacitated and unable to communicate a rational decision. The patient continues to make decisions while clinically judged to have the capacity to do so. Advanced directives include:

- A durable power of attorney, which names someone to make decisions about private, business, and legal issues on a person’s behalf when he or she is incapacitated
- A health care proxy (HCP), which names someone to make health-care related decisions when and if the patient is unable to

The HCP provides instructions regarding life-extending care and resuscitation. An important foundation for end-of-life decision making is that an individual has the right to refuse treatment. Two legal cases are central to end-of-life decision making. One is the Karen Ann Quinlan case in the mid-1970s, in which the New Jersey Supreme Court ruled that the right to privacy includes a right to
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Benzodiazepines/sedative-hypnotics and medications with anticholinergic effects are problematic in the elderly and require closer consideration of risks and benefits, including vision and other sensory input, and motivation. Several medication classes are problematic in the elderly, including delirium, dementia, stroke, traumatic brain injury, neurodevelopmental disorders, and psychoses. Areas in which capacity to make decisions are assessed and for which a guardian may be needed include routine healthcare, decisions about finances and business, and decisions about medical care that can be state specific and include use of antipsychotic medication and electroconvulsive therapy.

Concurrent use of multiple medications is common in geriatric patients and carries a heightened risk of adverse outcomes. There are several important considerations related to psychopharmacology and polypharmacy in this population. One issue involves changes in drug metabolism and clearance and body composition as people age. The risk of adverse effects increases as the medication load is increased and clearance is reduced. Four common medications and classes were found to be particularly problematic in the elderly: warfarin, insulin, oral antiplatelet agents, and oral hypoglycemics.

Psychopharmacology and risk management
Concurrent use of multiple medications is common in geriatric patients and carries a heightened risk of adverse outcomes. There are several important considerations related to psychopharmacology and polypharmacy in this population. One issue involves changes in drug metabolism and clearance and body composition as people age. The risk of adverse effects increases as the medication load is increased and clearance is reduced. Four common medications and classes were found to be particularly problematic in the elderly: warfarin, insulin, oral antiplatelet agents, and oral hypoglycemics.

Pharmacokinetic/pharmacodynamic changes in the elderly increase the risk of drug-drug interactions, including psychotropics. Polypharmacy carries the added risk of a prescribing cascade, an adverse drug event that is misinterpreted as a medical symptom or condition and results in a prescription for another drug. Symptoms mistakenly attributed to a medical condition may also result in more testing, which can carry an added risk.

The following steps are recommended for decreasing medical risk in the elderly:
- Consider new signs and symptoms as a possible result of the patient's current medications
- Before any new drug treatment is started, the need for the drug should be reevaluated
- If drug treatment is necessary, the lowest feasible dose of the drug should be used and alternative drugs with fewer adverse effects considered

Another practical issue with polypharmacy is medication adherence and appropriate management. As the number/variety of medications and doses increase, there is an increased risk of missing or mismanaging doses. Several factors play a role in medication management, including cognition, vision and other sensory input, and motivation. Several medication classes are problematic in the elderly and require closer consideration of risks and benefits, including benzodiazepines/sedative-hypnotics and medications with anticholinergic effects.
The updated Beers Criteria for Potentially Inappropriate Medication Use in Older Adults can help assess risks/benefits in treatment decision making. In addition, recommendations that can lower risk to elderly patients include eliminating unnecessary medications and avoiding a prescribing cascade, monitoring for adverse effects and blood levels, and educating and coordinating with patients, families, and caregivers to ensure safer medication administration.

Disclosures:
Dr Holzer is on staff at the McLean Geriatric Outpatient and Memory Diagnostic Clinic and faculty at Harvard Medical School in Boston. He reports no conflicts of interest concerning the subject matter of this article.

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