

THE FUNCTIONAL MENTAL STATE MEASURE (FMSM) TO DETERMINE CAPACITY IN PATIENTS WITH NEUROLOGICAL IMPAIRMENT/DISABILITY IN PLACE OF COGNITIVE ASSESSMENT

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Aim: To present the Functional Mental State Measure (FMSM), PsycheTests[®], for use in patients with neurological impairment who are subjected to a Guardianship review.

Methods: Using the FMSM patients were asked to assess their own performance according to the modified Functional Independence Measure (FIM) score as well as complete the Mini-Mental State examination screening test for cognitive impairment. The FIM scores were compared to an assessment by a third party or occupational therapist. Any discrepancies were checked by the doctor.

Results: Although only patients requiring a capacity assessment were tested, patients were able to provide answers that permitted capacity to be assessed, as they could indicate on a 1 to 7 point scale what their function was, where seven is full independence and 0-5 required supervision or assistance for a range of activities including personal care, daily living and preferences related to lifestyle, place of preferred residence and with whom they would like to live, including having a pet, and whom to choose in relation to financial affairs.

Conclusion: The FMSM is a useful tool to assess capacity because it utilizes self-assessment rather than abstract questioning and tests of cognitive impairment to determine capacity. Its use ought to supersede any criteria of capacity based on cognitive assessment, which relies on abstract questioning rather than matters of personal concern, and which determine impairment rather than retention of function, on which capacity depends. Therefore, the Guardianship & Administration Act 1986 (Vic), Australia, subject of a Law Reform Commission review, requires further review.