Author's response to reviews

Title: Assessment of the capacity to consent to treatment in patients admitted to acute medical wards

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Author's response to reviews: see over
Dear Dr Wilson, dear Dr White and dear Associate Editor,

We would like to thank you for the positive comments related to our manuscript entitled “Assessment of the capacity to consent to treatment in patient admitted to acute medical wards”. Your comments were helpful; please find below a response-point by point to your comments. The revised version of the manuscript is now improved and we hope that it is acceptable for publication in BMC.

Answer to Dr Wilson’s comments:

A COUPLE OF TYPOS (DISCRETIONARY REVISIONS)

P. 5 MISSING SPACE: "hospital’s ethics committee and"

The correction has been brought to the document (see page 5)

p.5 MISPLACED SEMICOLON: "Silberfeld questionnaire) ;or who had"

The correction has been brought to the document (see page 5)

p.6 MIS-SPELLING OF SILBERFELD: "We are aware that the Silberfeld does not..."

The correction has been brought to the document (see page 11, last paragraph)
**Answer to Dr White’s comments:**

Generally:
- Still an interesting paper
- Needs statement about comparative jurisdiction.

Response: We have stated in the revised manuscript that this study was conducted under Swiss law and that legal aspects concerning patients’ competence may vary between countries. We believe that it is beyond the scope of this manuscript to establish a comparative jurisdiction between different countries. It is clearly stated in the manuscript that this research was done in a Swiss University Hospital.

- Assumes senior psychiatrist is gold standard – which they may not be, when determining consent for a procedure about which they know little.

Response: We agree with the argument that the psychiatric evaluation can not automatically be claimed as being the «gold standard». Nevertheless under study conditions, the psychiatrist evaluating capacity to consent has been specifically trained and complemented his clinical judgment with a standardised guideline after having discussed a series of cases with an experienced liaison psychiatrist. One can therefore assume that psychiatrist’s evaluation can be regarded as a rather accurate evaluation. However, in the revised version of the manuscript we renounce to refer to the psychiatrist’s evaluation as «gold standard ».(see page 13, first paragraph)

Specifically:
**Methods**
- Were any attempts made to include patients with major haemodynamic instability once they’d improved?

Response: Since the period of time during which the study was 72 hours, such an attempt was not made. We agree that the excluded patients’ competency influences the prevalence of incompetence and that the capacity to consent may be increased during hospital stay. However it is not very probable that all of them, especially the haemodynamically instable, were competent. Furthermore we would like to underline that important medical decisions often have to be taken during the first 72 hours after admission.

- Did the patients who refused to participate have the capacity to do so? Or did they refuse because they were all confused – in which case, prevalence of incapacity might have been even higher. Prevalence of incapacity then is only 74% among responders.

Response: We did not have the possibility to assess the capacity to consent of the patients who refused to participate to the study (n=15). Our ethical committee requested that the refusal to participate was a reason to exclude a patient (the main reasons for refusing mentioned by patients were “fatigue” or “refusal to participate to any kind of study”). Therefore we can only hypothesize about their capacity to consent. However we now included in the revised version a sentence where we mention its potential for bias (see page 10 paragraph 2).
Furthermore, how did the 25% without capacity give their consent to take part in the study? Is the written consent of relatives or GPs valid? Usually, in the UK, for example no-one can consent on behalf of an adult without capacity.

Response: When capacity was profoundly altered, we had no other choice than involving a relative or the general practitioner. This proceeding was accepted by the Ethics Committee of the Hospital and is included in the revised version of the manuscript (see page 5 paragraph 1).

• Does anyone have an ‘obvious’ lack of capacity? Out of the 38 obviously incompetent, who was unconscious, who was obviously severely impaired?

Response: We did not document the reasons for their obvious incompetence. As mentioned in the text, unconsciousness and severe cognitive impairment was considered as “obvious incompetence”.

• Were any attempts made to see if capacity returned later within the 72 hours after admission?

Response: Since the period of time during which the study was 72 hours, such an attempt was not made, see also response to your first comment on methods.

• Capacity to consent to treatment is only of importance if there is a treatment proposed? Was there a standard treatment proposed in this research for which the patients’ capacities were being assessed by the senior psychiatrist?

Response: Capacity to consent is specific to a given situation (treatment, investigation, need for hospitalisation, etc.) and has been evaluated accordingly. This is stated in the revised version of the manuscript (see page 3 paragraph 1 and page 5 paragraph 3).

• I prefer that the text is not referenced in the methods section

Response: The text is only referenced with regards to the specific instruments and procedures mentioned for the first time in the method section.

• Discussion of the Silberfeld questionnaire should be relocated to the Discussion

The modification has been brought to the document (see page 11, last paragraph).

Results
• Table 1 not needed. Restrict sociodemographics to age (give mean, SD and range) and sex only.

Response: We consider table 1 might be useful if future investigators would like to compare results and therefore propose to keep this table.

Discussion
• Discussion and conclusions?

Response: The correction has been brought to the document (see page 13).

• Needs discussion about linear and relative nature of capacity.
Response: We have detailed the different aspects (specificity, temporality, etc) of capacity in the revised version of the manuscript (see page 5 paragraph 3).

- What were the specificities claimed by Silberfield in the original paper? Who did Silberfield recommend the test be administered to?
Response: We have elaborated on the use of the Silberfeld questionnaire in the revised version of the manuscript (see page 11 last paragraph)

- GPs – this may be a country-specific problem. Is there an equivalent to the Mental Capacity Act 2005 in Switzerland? – this Act has had the effect of raising awareness about mental capacity in the UK …
Response: There is no such equivalent in Switzerland. We have mentioned in the revised version of the manuscript that there are variable medico-legal contexts with regard to capacity to consent in different countries (see page 13, last paragraph).

- Was any assessment made for specific communication problems in elderly French speakers (the deaf, expressive dysphasia, the blind etc etc)
Response: No patients with severe communicational problems (deafness, dysphasic or blind patients) were included in the study. All patients included were native French speaking.
Answer to Associate Editor’s comments:

The authors MUST clean up the grammatical and typographical errors (see reviewer 2’s suggestions)

- The corrections have been brought to the document

The authors should ask a native English speaker to read the manuscript carefully

- The manuscript has been carefully read by a native English speaker colleague

- bottom of p.3 : The correction has been brought to the document
- singular instead of plural in middle of p.6 : The correction has been brought to the document
- p. 10 (instable instead of the correct ‘unstable’) The correction has been brought to the document
- p.12 e.i. instead of i.e., The correction has been brought to the document
- p.13 it's instead of its in final sentence : The sentence has been modified

The final sentence should be corrected to something like: ‘Since a clinical judgement based on a shared interdisciplinary evaluation appears to be the best available option to respect ethico-legal obligations to assess patient capacity, a sound understanding of consent and its accurate evaluation in practice should form part of pre and postgraduate training’

- The sentence has been modified