Reviewer's report

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

Version: 3 Date: 23 April 2009

Reviewer: Stuart M White

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23rd April, 2009
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Fassassi et al. Assessment of the capacity to consent to treatment in patients admitted to acute medical wards.
BMC Medical Ethics ref.: 9581560062414974

Dear Daniel,

It was rather difficult to see where any changes had been made, as these were not indicated in the resubmitted manuscript, but the following points, I believe, still require answering:

Generally:
• Still an interesting paper
• Needs statement about comparative jurisdiction.
• Assumes senior psychiatrist is gold standard – which they may not be, when determining consent for a procedure about which they know little.

Specifically:

Methods
• Were any attempts made to include patients with major haemodynamic instability once they’d improved?
• 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. 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 …
• Does anyone have an ‘obvious’ lack of capacity? Out of the 38 obviously incompetent, who was unconscious, who was obviously severely impaired?
• Were any attempts made to see if capacity returned later within the 72 hours
after admission?
• 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?
• I prefer that the text is not referenced in the methods section
• Discussion of the Silberfeld questionnaire should be relocated to the Discussion

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

Discussion
• Discussion and conclusions?
• Needs discussion about linear and relative nature of capacity.
• What were the specificities claimed by Silberfeld in the original paper? Who did Silberfeld recommend the test be administered to?
• 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 …
• Was any assessment made for specific communication problems in elderly French speakers (the deaf, expressive dysphasia, the blind etc etc)

yours sincerely,

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Level of interest: An article whose findings are important to those with closely related research interests

Quality of written English: Needs some language corrections before being published

Statistical review: No, the manuscript does not need to be seen by a statistician.

Declaration of competing interests:
'I declare that I have no competing interests'