

FLORIDA STATUTES RELEVANT TO ASSESSMENTS OF THE ELDERLY

490.003 Definitions

(4) The ethical practice of psychology includes . . .neuropsychological functioning, including evaluation of mental competency to manage one's affairs and to participate in legal proceedings

490.009 Discipline

(r) Failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the licensee is not qualified by training or experience.

64B19-18.004 Use of Test Instruments

- (1) The Board finds that the inappropriate use of test instruments is harmful to consumers.
- (2) A psychologist who uses test instruments in the psychologist's practice of psychology:
 - (a) Must consider whether research supports the underlying presumptions which govern the interpretive statements which would be made by the test instruments as a result of its completion by any service user:
 - (b) Must be able to justify the selection of any particular test instrument for the particular service user.
 - (c) Must integrate and reconcile the interpretive statements made by the test instrument based on group norms, with the psychologist's independent professional knowledge, evaluation and assessment of the individual;
 - (d) Must specify in the test report the name of each person who assisted the psychologist in the administration of the test and the role which that person played in the administration of the test.
- (3) A psychologist who uses test instruments may not release test data except (1) to a licensed psychologist or school psychologist or (2) under court order or (3) when the release is otherwise required by law. When raw test data is released, the psychologist shall certify to the service user that all raw test data from those instruments have been provided. Psychologists are expected to make all reasonable efforts to maintain the integrity of the test protocols.
- (4) The psychologist must meet with the test subject face-to-face in a clinical setting unless the psychologist has delegated the work to a psychological intern, psychological trainee or psychological resident in a doctoral psychology program approved by the American Psychological Association.
- (5) It shall be a violation of this rule for a psychologist to sign any evaluation or assessment unless the psychologist has had an active role in the evaluation or assessment of the subject. A psychologist may not sign a report signed by any

other person unless they are signing as a supervisor in conjunction with an assessment performed by a psychological intern, trainee or resident.

- (6) “Test instruments” measure neuropsychological functioning including evaluation of mental capacity to manage one’s affairs and to participate in legal proceedings.

64B19-19.006 Confidentiality

(2) In cases where an evaluation is performed upon a person by a psychologist for use by a third party, the psychologist must explain to the person being evaluated the limits of confidentiality in that specific situation, document that such information was explained and understood by the person being evaluated and obtain written informed consent to all aspects of the testing and evaluative procedures.

(3) This rule recognizes that minors and legally incapacitated individuals cannot give informed consent under the law. Psychologists, nonetheless, owe a duty of confidentiality to minor and legally incapacitated service users consistent with the duty imposed by subsection (1). This does not mean that the psychologist may not impart the psychologist’s own evaluation, assessment, analysis, diagnosis or recommendations regarding the minor or legally incapacitated individual to the service user’s guardian or to any court of law.

415.102 Definitions of terms

(2) “Capacity to consent” means that a vulnerable adult has sufficient understanding to make and communicate responsible decisions regarding the vulnerable adult’s person or property, including whether or not to accept protective services offered by the department.

(14) “Lacks capacity to consent” means a mental impairment that causes a vulnerable adult to lack sufficient understanding or capacity to make or communicate responsible decisions concerning person or property, including whether or not to accept protective services.

(26) “Vulnerable adult” means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.

Larry Kubiak, Ph.D.
Licensed Psychologist #PY4011
Director of Psychological Services
Tallahassee Memorial Behavioral Health Center