Review

State-of-the-Art Testamentary Capacity Assessment Tool (TCAT) in Dementia: A Review of Studies and Update Report

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State-of-the-Art Testamentary Capacity Assessment Tool (TCAT) in Dementia: A Review of Studies and Update Report

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Abstract

Background: The Testamentary Capacity Assessment Tool (TCAT) is a brief instrument with good psychometric properties, specifically designed for the assessment of testamentary capacity (TC) in individuals with dementia. It assesses memory, perception of financial matters and judgment, as well as cognitive functions, such as theory of mind, not measured by other traditional tools. Additionally, it does not require collateral sources of financial information. Aim of the present study was to provide an updated report on the use of the TCAT in research and systematic review studies. Methods: This narrative review includes studies that have used the TCAT for clinical use, validation in different culture, and comparison with the two other specialized TC assessment tools. The Pubmed database was searched using the keyword "Testamentary Capacity Assessment Tool". Results: The TCAT has been validated in healthy Italian population and was found to be a useful adjunct instrument for TC assessment in older adults. Another study demonstrated its clinical utility in patients with acute ischemic stroke. A systematic review compared the TCAT to the other two existing specialized TC assessment tools, namely the Testamentary Capacity Instrument (TCI) and the Testamentary Definition Statement (TDS) and highlighted the superiority of the TCAT in clinical practice. Conclusions: TCAT is a useful, specialized screening tool that is easily applicable in clinical practice by both experts and non-experts. Further studies are recommended across different cultures, in both healthy and cognitively impaired adults, to support its standardized use in forensic and clinical settings.

Keywords: dementia; testamentary capacity; instruments; testamentary capacity assessment tool

1. Introduction

Testamentary Capacity (TC) refers to the legal ability of a person to make a valid will. In recent decades, Courts have increasingly been confronted with an increased number of contested wills related to alleged lack of TC.

Major factors influencing a person's TC include undue influence and medical conditions affecting cognitive functions such as judgment, within an increasingly aging population. The size of the testator's estate and the complexity of modern family structure may further contribute to legal conflicts. Even in normal aging without dementia, the cognitive process of composing a will is a complex, higher order functional capacity with many cognitive, behavioral and emotional factors involved [1].

TC is distinct from financial capacity, which includes a wide range of abilities related to managing finances and assets. Cognitive domains related to TC include memory, especially autobiographical memory, executive functions, such as judgment and intention; and social cognition.

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The characterization of a person as incapable of making a will solely on the basis of a diagnosis of dementia or a psychiatric disorder can be misleading, as the assessment of TC is a multifunctional process that spans both legal and medical fields and requires a collaborative approach.

Health practitioners are often asked to act as "experts" in evaluating a person's TC, while the Courts remains the final arbiters. Although retrospective evaluations are common, contemporaneous assessments are generally more reliable, as they concerns the living testator at or near the time the will is composed, thereby better protecting the individual's wishes [1]. Determination of TC around the world is is guided by specific legal criteria, which are closely related to the Banks v Goodfellow criteria (1870) as follows: The person must know: a) that he/she is making a will; b) the nature and approximate value of his or her estate; c) the "natural objects of his/her bounty", that is, those who are legally entitled to the estate he or she is distributing; and d) how the assets are distributed through the will [1,2].

TC can be retained in dementia—particularly mild or moderate forms—since dementias and other mental illnesses do not inevitably lead to testamentary or other legal incapacity. Some psychiatric issues associated with dementia, such as impaired perception, impulsivity and poor judgment may influence the testator's appreciation of the consequences of a will and therefore require careful evaluation [3]. When the person has a severe cognitive decline, legal professionals may not require the assistance of an expert to assess TC; however, many cases involve subtle cognitive changes that necessitate detailed interpretation, particularly in mild or moderate dementia [4]. At the same time, health professionals should proceed ~~to~~ with the evaluation of a patient's TC by taking into consideration the solicitors' guidance regarding the legal standards. This approach avoids labeling individuals as incompetent solely on the basis of low scores on screening tests, when they may still clearly understand how and to whom they wish~~es~~ to distribute their assets [5].

Therefore, a thorough cognitive evaluation is essential in the context of TC assessment. The clinical interview is the core component in TC assessment, while the neuropsychological instruments serve as valuable complementary tools. The instruments can aid in diagnosing dementia or identifying deficits in several cognitive functions relevant to TC, but only when interpreted by a qualified practitioner, such as a neurologist or a psychiatrist. They do not replace the forensic expert's judgment, but they provide supporting evidence for the expert's evaluation and contribute to a more consistent and structured approach to TC assessment for the courts. Methods used in TC assessment may include formal tests, behavioral checklists, direct observation and semi-structured interviews [1].

There are limited neuropsychological instruments with established psychometric properties, specifically designed in TC assessment in dementia [1,6,7]. As a result, the experts often rely on a combination of tools to ensure adequate coverage of the functions required to compose a valid will. The examiner often needs a specialized screening tool to help him or her distinguish individuals who are clearly capable from those who need~~s~~ a forensic expertise [1,7]. In this context, the Testamentary Capacity Assessment Tool (TCAT) was developed [7].

The **aim** of the present narrative review study is to provide an update report of the use of the TCAT as a specialized instrument for TC assessment in dementia in everyday clinical and legal practice. It includes all the research and systematic review studies which have used the TCAT and summarizes findings indicating that it is a useful brief, clinical screening tool among the existing specialized TC assessment instruments for dementia.

2. Method

The present work is a narrative review of the studies that have used the TCAT. A literature review search of PubMed (2018-2025) was conducted using the term "testamentary capacity assessment tool". Three papers were included: two research studies, one examining the use of the TCAT in acute ischemic stroke, another validating the TCAT in a healthy Italian population, and one systematic review about the comparison of the TCAT with other existing specialized instruments for the assessment of TC. All included articles were published in English and available in full text.

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3. Results

3.1. Neuropsychological Background of Testamentary Capacity Assessment in Dementia

TC is considered as a complex capacity and an advanced activity of daily living. It requires intact frontal/executive functions, in contrast to more basic daily living capacities such as household tasks. Several cognitive domains are related to the ability to make a will: memory (including free recall and recognition); orientation; expressive and receptive language; and executive functions, such as abstract thinking, impulsiveness and social judgment [1]. Executive dysfunction may, in fact, be an early feature of dementia~~s~~.

In dementia, even mild to moderate stages, there may be impairment in patients' interpersonal relationships due to deficits in executive functioning and autobiographical memory. Suspiciousness and impulsive judgment are frequent symptoms that can affect TC, and personality changes may also occur. These factors may lead, for instance, the patient to exclude from his or her will a person who would normally be expected to be the testator's heir [5].

In contrast to the limited number of studies on specialized methods for assessing TC in patients with dementia, there are more instruments assessing decision-making capacity in dementia focusing mainly on the capacity for therapeutic choices (informed consent to treatment), everyday life decisions and consent to research participation [1,7,8]. In the recent literature, a combination of instruments is often used to assess TC, which can be grouped into the following categories:

A. General ability tests, assessing cognitive functions or independent living skills.

These instruments are useful for screening cognitive impairment, as well as detecting some subtle deficits and monitoring changes over time. Examples include the Mini-Mental State Examination (MMSE) [9], the Montreal Cognitive Assessment (MoCA) [10], the Frontal Assessment Battery (FAB) [11] and the Addenbrooke's Cognitive Examination Revised (ACE-R) [12], which are often used in legal capacity assessments. However, none of these can specifically evaluate or reliably predict ~~the~~ TC in dementia [6].

B. Specific tests, including financial capacity (FC) and decision-making capacity assessment instruments.

Some FC models have been used for the assessment of TC, especially regarding the evaluation of a patient's understanding of the value of his or her property, such as the Hopemont Capacity Assessment Interview (HCAI) [13] and the Financial Capacity Instrument (FCI) [14,15]. The HCAI and the FCI are considered Forensic Assessment Instruments (FAIs), meaning that they are designed to provide ~~a~~ specific and direct answers to legal and clinical questions [16]. Nevertheless, lack established psychometric properties specifically for the assessment of TC.

The administration of a combination of instruments for TC assessment can be time-consuming and exhausting for patients and impractical for medical practitioners who often require a brief screening tool before referring a case to a forensic expert [1,7]. Despite recommendations for the development of a specialized, medico-legal instrument ~~tool~~, there are few relevant studies. This is largely due to significant methodological challenges in standardizing TC assessment as TC must be evaluated at or near the time of will composition and is highly situation-specific.

Furthermore, a multidisciplinary approach is needed for the development of such a tool, since TC lies at the intersection of legal and medical fields and requires a collaborative approach for its assessment [1,17,18]. Even in non-demented older adults, assessing intention in relation to TC is a complex process that requires the expert to take into consideration cognitive, functional and emotional factors [1,19,20].

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3.2. Testamentary Capacity Assessment Tool (TCAT)

For the reasons outlined above, the Testamentary Capacity Assessment Tool (TCAT) was developed [7]. It is a brief specialized neurocognitive instrument for the assessment of TC in patients with dementia, independent of collateral information regarding financial parameters. The TCAT serves as ~~is~~ a useful screening instrument for the identification of individuals who may require more extensive evaluations or to reliably determine patients with clear testamentary capacity or incapacity using a cut-off score. Its administration is straight-forward allowing use by clinicians or other professionals, i.e., attorneys, lawyers and ~~or~~ notary publics. It can also predict expert opinions, guiding decisions on whether to proceed ~~in~~ with a more extensive evaluation by an expert [7].

3.3. Structure of the TCAT, Strengths and Limitations

The TCAT was developed through a collaborative effort among professionals with complementary expertise: A behavioral neurologist (Sokratis G. Papageorgiou); a forensic psychiatrist (Athanasios Douzenis); a neuropsychologist (Alexandra Economou); a neurologist specializing in dementia (Panagiota Voskou.); a senior court judge (Michalis Margaritis); a neuropsychologist trained in medical statistics (Ionas Beratis). Given that TC involves a multifunctional process, this collaborative approach was critical to the tool's development and significance.

The TCAT assesses all key components required for TC: memory, knowledge of financial matters, intention, and the absence of acute psychopathology. The intention of the testator or testatrix ~~of~~ regarding how and to whom they wish to distribute their property and their ability to express their choices and wishes rationally is arguably the most important and more difficult parameter to measure in an objective way [1]. Because making a will requires planning, intact executive functioning is essential.

The TCAT places particular emphasis on the evaluation of autobiographical memory, as impairments in this domain compromise the recall of past relationships and significant life events, including past disputes [21]. Impaired working memory may prevent patients from evaluating relationships in the context of both past and present, rendering them particularly vulnerable to undue influence from frequent contacts or potential heirs [22]. The tool also adjusts its questions according to participants' family situations and occupational status and separate forms are based on family configuration.

The assessment of judgement and intention is another major focus, as deficits in these areas may prevent patients from understanding the meaning, significance or moral implications of another's behavior, weighing priorities and making reasoned decisions. Consequently, patients may make shallow and impulsive judgments of people and situations or be vulnerable to the influence of those with whom they are in frequent contact [23].

The TCAT uses methods aligned with clinical practice and research. It includes scenarios in the form of vignettes, structured questions to assess judgment and intention, as well as a theory of mind (ToM) scenario evaluate the patients' way of thinking and ability to analyze situations. The importance of vignettes ~~is~~ highlighted in the literature [24–28]. In the TCAT, hypothetical scenarios were created *de novo,* in the form of vignettes which were simple and realistic to facilitate reliable assessment without overwhelming the participant. The vignettes in the section evaluating judgment (Part D) avoid multiple-choice scenarios or subjective interpretations.

Notably, the TCAT does not rely on collateral information from caregivers or relatives regarding financial matters. Informants may provide biased or inaccurate information about patient's functional skills, including those related to FC [29], especially in cases of family conflict [30]. Patients with mild dementia may overestimate or be unaware of their impairment in financial matters, due to cognitive impairment and depression, while informants may misestimate them as well [31,32]. Eliminating the need for collateral sources of information (in Part C) is therefore a distinct advantage of the TCAT.

The Theory of Mind (ToM) scenario assesses the ability to recognize a specific situation [7]. The ToM component was based on "first-order false belief tests" which are designed to assess the

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individual's ability to infer that someone can have a (mistaken) belief which is different from their own. Alzheimer's disease (AD) patients may have impairments in ToM which cannot be explained by general cognitive decline [33]. The ToM scenario has the form of a figure which was designed *de novo* and is included in part D (see Supplementary Materials).

The TCAT is brief, requiring approximately 20 minutes for its administration and is designed for practical use by non-specialists [7,25]. It includes the following information [7] (see the instrument in Supplementary Materials):

- Demographic Data: sex, age, years of education, living arrangements.

- Part A: Assessment of autobiographical memory including questions about the patient's family and important facts of his/her life, as well as episodic memory with free recall of the four products used in Part C.

- Part B: Documenting the patient's behavior during the assessment. The Patient Health Questionnaire-9 (PHQ-9) [34,35] is ~~co-~~ administered as an exclusion criterion for patients with severe depressive symptoms. Part B' is not included in the TCAT scoring.

- Part C: Assessment of financial knowledge and free recall of the four products given in Part C (scored within of Part A). The items of the TCAT in Parts C and D were formulated *de novo.*

- Part D: Assessment of intention and judgment, using vignette-based questions with hypothetical scenarios and a ToM question.

The results from the original research study ~~of~~ on the TCAT [7] showed that it is a reliable, valid and sensitive tool for the evaluation of TC in dementia. It predicts the opinion of the expert regarding the TC of a patient and shows satisfactory levels of sensitivity, specificity and internal reliability, supporting its criterion-related validity.

A simplified scoring format with a maximum score of 42 (excluding six questions about siblings and children) maintains sensitivity and specificity comparable to the full 45-point version allowing consistent scoring across participants regardless of the existence of siblings or children. The TCAT is effective ~~both~~ for patients with mild to moderate dementia and shows satisfactory psychometric properties in individuals with low educational attainment (≤6 years of education).

Limitations of the TCAT are the following: It has not yet been tested in dementias other than Alzheimer disease dementia, so its validation in dementia cases is unknown. The items used in the Part C are culturally specific items (Greek products), so they have to be adapted to other cultures. Furthermore, there is lack of testing in illiterate patients [7].

3.4. Other Specialized TC Instruments

Although the MMSE is not a specialized instrument, it is used in in legal capacity assessments, combined with other tools. The comparison of the TCAT with the MMSE showed a clear advantage of the TCAT, in terms of both sensitivity and specificity [7], since it assesses patients' executive functions and theory of mind, which are not tested by other TC tools (described below), supporting the superior validity of the TCAT [6].

The FAIs, which are decribed above (section 3.1), have been developed for the contemporaneous evaluation of legal capacity in dementia, including TC. However, the majority of FAIs still lack validation and standardization, limiting their adoption in forensic and clinical settings [1,36]. Bolognini et al. [36] describe three FAIs specialized for TC and applied to clinical population with dementia, namely the Testamentary Capacity Instrument (TCI) [37]; the Testament Definition Scale (TDS) [38] and the TCAT [7]. They characterize the TCAT as a brief specialized neurocognitive-based FAI for the screening of cognitive functions relevant to TC in dementia. The TCAT is highlighted for assessing cognitive domains critical to TC, including social cognition, and is recommended alongside evaluation for comprehensive assessment [36].

The TDS is a brief, six-item rating scale for the evaluation of the ability to define "testament," one specific component of TC. This cognitive ability relies on the repository of semantic-lexical and conceptual representations [36,38]. Limitations include partial coverage of TC, the potential bias of

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the consensus validity, its small and homogenous sample, and lack of testing in non-demented controls [6,38].

The TCI is a structured, interview-based, psychometric tool designed for forensic settings, categorizing individuals as capable, marginally capable, or incapable [39,40]. Limitations of the TCI include the small sample of cognitively intact older adults and AD patients, the fact that the tool is designed for forensic experts and involves a long interview and the need for collateral information [40].

All three instruments (TDS, TCAT, TCI) have good psychometric properties, but the TDS only partially assesses TC and the TCI is designed for research use rather than clinical practice [6]. The TCAT could supplement the clinical assessment of TC, combined with a standardized examination of cognition [6]. Aravind et al. in their systematic review [6], conclude that while the TDS and TCI have psychometric value, the TCAT is the most practical and specialized instrument for clinical practice, offering rapid assessment of executive functions, social cognition, and TC- relevant cognitive domains as well as cutoff scores. The methodological characteristics of each instrument can be found in the systematic review of Aravind et al., 2024 [6].

The Table 1 provides the basic characteristics of the three tools. (A more analytic table and complete review of their psychometric properties can be found in the systematic review of Aravind et al., 2024 [6])

Table 1: Specialized Testamentary Capacity (TC) instruments—Basic characteristics.

TOOLS	Domains Assessed	Strengths	Weaknesses
Testamentary Definition Scale (TDS)	- Ability to define testament	- Potential clinical utility - Established cut-off scores - Significant correlation with MMSE and CAMCOG	- Items based on encyclopedia, not a widely accepted legal definition - Small homogenous sample - No control groups - Correlation with other cognitive domains and legal requirements not studied
Testamentary Capacity Instrument (TCI)	- Cognition - Mood - Four legal TC elements tested Administered verbally or in writing	- Useful in clinical forensic settings - Scores for capable, marginally capable, or incapable - Differentiation of cognitively intact older adults from cognitively impaired older adults - Administered also in controls	- Need for collateral history - Long interview - Not for all medical professionals – Designed for forensic experts - Small sample - Not tested in adults under 60 y.o.
Testamentary Capacity Assessment Tool (TCAT)	-Autobiographical memory - Knowledge of financial parameters - Intention and judgment - Theory of mind Verbally administered	- Brief, screening, useful for everyday clinical practice - Assessment of core cognitive functions required for TC - No need for collateral sources of information for financial matters - Theory of mind assessment - Not special training for its administration/ use by non-experts too - Administered also in controls	- Sample included mostly females and only AD patients - Not tested in adults under 40 y.o. - Some items specific to Greek culture - No scores for marginally capable patient or tested for cognitive fluctuations

(Table based on the systematic review of Aravind et al., 2024)

3.5. Use of the TCAT in Research Studies

Bolognini et al. collected normative data on the TCAT and assessed its convergent validity with standardized cognitive tests and the capacity to define what a 'testament' is [36]. They examined 323

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neurologically healthy adults of different ages and different educational levels, administering the TCAT along with the Beck Depression Inventory-II (BDI-II, [41]), the MoCA [10], the MMSE [9], the FAB [11] and the TDS [38]. For the Italian adaptation, culturally specific items were replaced with Italian ones (e.g., Greek feta cheese weas replaced with parmesan). TCAT scores were influenced by gender, age, education, major depression, with positive correlation to TDS scores, supporting its convergent validity. The normative data in the Italian population highlights the use of the TCAT as cognitive screening test in the neuropsychological evaluation of TC. Additionally, they propose its use as a complementary screening tool of global cognitive status, since it can provide professionals with a quick, yet reliable, evaluation of decision-making, social cognition and financial capacity, which are strongly related to functional status and legal capacity, including TC [36].

Tsiakiri et al. examined TC in first-ever acute ischemic stroke, as well as its relation to demographic and clinical characteristics [42]. TCAT scores correlated positively with education and were largely independent of age or gender. Memory and attention emerged as independent determinants of TCAT scores. The study confirmed the diagnostic validity and clinical usefulness of the TCAT in stroke and, similar to other studies described above, emphasized its advantage regarding the ToM scenario, the evaluation of executive functions and its practical and standardized approach to TC evaluation. The authors highlight the instrument's utility in predicting expert opinion and evaluating dynamic post-stroke TC recovery.

4. Conclusions

The assessment of TC requires collaboration between legal and medical professionals, as courts remain the final arbiters [1]. TC evaluation is complex even in for non-demented older adults and more challenging in dementia, given its situation- and task- specific nature. Key components include intention, judgment and the executive functions. The presence of dementia or psychiatric disorder should not automatically indicate lack of TC. The neuropsychological instruments may support and strengthen both the clinical interview and the specialized forensic assessment improving reliability and identifying individuals requiring further evaluation [1,6,7,36].

The TCAT is a brief, validated and psychometrically robust tool for screening TC in dementia. It does not rely on collateral financial information or special training, predicts expert opinion, and can guide referral for forensic assessment. Its unique evaluation of executive function and ToM further strengthens its clinical utility [7,36,42]. It has been proposed as a supplementary tool in the process of TC assessment in everyday clinical practice [6] and for the screening of cognitive status in general (regardless of TC) along with other cognitive tests [36]. The TCAT can be also useful for medical practitioners to consider it as a part of a comprehensive TC assessment [6]. However, in order for the TCAT to be recognized as an international tool for TC assessment in dementia, it should be validated and adapted in various cultures.

Future research should aim to develop a stand-alone instrument which would incorporate all the significant elements influencing TC including social cognition, functional abilities of older adults without cognitive impairment, and applicability of the TCAT across different dementias, neurological conditions, psychiatric disorders, cultures, and literacy levels [1,7,36].

Supplementary Materials: The following supporting information can be downloaded at the website of this paper posted on Preprints.org, The Testamentary Capacity Assessment Tool (TCAT) and the ToM figure included in Part D.

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