

THE ELUSIVE COMPETENCE TO STAND TRIAL ELEMENT: (In)ability to assist counsel in the conduct of a defense in a rational manner element of competence: how to consider it; how to evaluate it

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Track: Legal

Level: Intermediate

Room: TBD

CE: CPA/BBS/BRN, MCLE (1.5)

Narrative

The assessment of the accused possible incompetence to stand trial should, according to the California statutory definition, involve the assessment of whether that accused is “unable...to assist counsel in the conduct of a defense in a rational manner.” In order to assess that element, it is important to understand it as it is defined in the law, and as courts and standards of practice have defined the concept. Both courts and experts in the field have described this element as one that is outside the frame of knowledge of many assessing mental health professionals. This session will provide a discussion of relevant authorities, and will review how the element is discussed in case law, and in relevant literature.

BIO

John Philipsborn, Med, MAS, JD

John has been a criminal defense lawyer for more than 40 years. He has published for and lectured to audiences of mental health professionals and lawyers for many years. He has qualified as an expert on competence to stand trial in both State and Federal courts. He was recognized by FMHAC in 2015 with the Christine West Award.

Charles Hendrickson, BA, JD

Charles has been a lawyer since 1998, and has been with the Santa Clara Public Defender’s Office since 2006. Over the period of his tenure with that office he has been in and then supervised the Special Trials Unit, the Felony Trial and is now Assistant Public Defender where he supervises the Mental Health Unit. He has handled cases involving complex competence questions, and has lectured at the California Death Penalty Defense Conference on handling competence to stand trial issues.

Learning Objectives

1. Explain the issues of interest to courts and the litigators.
2. Describe literature and case law explaining the limitations of the forensic assessment competence models.
3. Describe the competence assessment model discussed by leading forensic assessment experts that include specific recommendations on the assessment of the accused interaction with counsel.