

Quick Facts : Capacity Assessment

CAPACITY

- Defined as the ability to both *understand* information relevant to a decision and to *appreciate* the consequences of a decision.

REQUIRED DECISION-MAKING ABILITIES FOR CAPACITY

- There are four decision-making abilities that patients require to be able to demonstrate capacity:
 - Ability to understand relevant information
 - Ability to appreciate the situation and its consequences
 - Ability to reason
 - Ability to communicate and express a choice.
- Presence of each of these abilities needs to be determined and is assessed individually – probing questions can be used to assist with this process.

KEY ELEMENTS OF CAPACITY

A. PRESUMPTION OF CAPACITY

- People are presumed capable to make choices for themselves, unless proven otherwise - onus is on the clinician to prove incapacity.
- Incapacity is often reversible – illness can temporarily impair capacity and it can be regained upon recovery.
- Assessments should be focused on enhancing independence and allowing people to make decisions where possible.

B. CAPACITY IS DOMAIN-SPECIFIC AND DECISION-SPECIFIC

- Concept of global capacity (people considered capable or incapable for all decisions) is no longer held.
- Within healthcare decision-making, there are six domains: healthcare, nutrition, clothing, shelter, hygiene and safety.
- It is currently recognized that people may have capacity in 1 domain but lack capacity in another – each domain is tested separately.
- Within each domain, there is a hierarchy of decisions that could be made from simple to complex - a person may be capable of making simple decisions but incapable of making complex decisions.
- Capacity assessment focuses on the specific abilities that an individual needs to make a decision regarding a specific decision/situation.

RELEVANCE

- Declaration of incapacity removes a fundamental freedom and right to make choices for oneself.
- People should only be declared incapable when it has been firmly established that they lack the ability to make decisions or are at serious risk because of their incapacity

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POINTS TO REMEMBER

- Capacity is an essential component of valid consent.
- Capacity is NOT a test result or a diagnosis.
- Capacity deals with the process of decision-making and does not depend on the actual choice made.
- Capable people are able to make rational decisions, based on their values, goals, knowledge and understanding of the issues facing them – they have the ability to identify and accept risks.
- Capacity is not a single ability that people have or not have – we use different abilities to make different kinds of choices – capacity is task-specific.
- Assessing capacity requires a consideration of the whole person – it is not related to an illness or diagnosis.
- Need to balance autonomy (or self-determination) and beneficence (protection).

MEASURING CAPACITY

- There is no single assessment tool for capacity –as a minimum, clinicians need a reliable and valid process as capacity is a multi-dimensional concept.
- Decision tools/aids can be helpful to guide the process.
Capacity assessment should only be performed if it serves the best interests of the person – the assessment should not be performed to serve the interests of others.
- There is no evidence that scores from standard tests of cognitive ability are a reliable indicator of capacity, partly because they are language-based and influenced by education, culture & language - these can be used as a screening tool to help inform a clinical capacity assessment but should be used in isolation.

RISK VS. CAPACITY

- embedded in a capacity assessment is a risk assessment.
- the issues that triggered the capacity assessment need to be addressed regardless of the assessment outcome.
- important factor in risk assessment is whether a person chooses to engage in risky behaviour despite being aware of the potential consequences – competent people do sometimes choose to live at risk.
- need to distinguish tolerable risks vs. intolerable ones – only intolerable risks require assessment of capacity.