
Evaluating Patients' Capacity to Make Decision

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Introduction: Conducting a capacity evaluation is a critical aspect of healthcare, particularly when you're faced with patients who may not be able to make informed decisions about their treatment. Any physician can evaluate a patient's capacity, but psychiatric clinicians are often consulted to assist with cases where mental illness or cognitive impairment might be influencing the patient's decision-making abilities.

Criteria for Capacity Documentation

1. Communicate a Consistent Choice

- Can the patient communicate at all? In some cases, such as catatonia or delirium, the patient may not be able to meaningfully communicate anything at all, in which case no further evaluation can occur and you will advise that the patient (at least temporarily) lacks decision-making capacity.
- Can the patient express a consistent yes/no decision? If they constantly change their mind, that's a red flag.
- Ask: "Have you made a decision?", "What have you decided?"

2. Understand the Relevant Information

- The patient should be able to convey an understanding of:
 - Diagnosis: "In your own words, what do you believe is wrong with your health?"
 - Symptoms: "Can you describe some symptoms of your condition?"
 - Recommended Test/Treatment: "What is our suggested next step? How might it help you?"
 - Potential Risks: "What are some risks of the test/treatment?"
 - Available Choices: "Can you list all the treatment options available to you?"

3. Appreciate the Situation and Its Consequences

- This involves understanding the options, risks, benefits, outcomes, and alternatives.
- Ask: "What are the pros and cons of each option?", "What could happen if you do or don't follow the recommended plan?"

4. Use Reason in Decision Making

- The patient's decision should be a product of logical reasoning and align with the patient's values and beliefs.
- Ask: "How did you come to this decision?", "Why do you favor one option over another?"

Additional points:

- Don't generalize a patient's capacity assessment for one decision to all other medical decisions. The threshold for capacity varies based on the treatment benefit and risk. A patient may have capacity to consent to, for example, a chest X ray, but not to brain surgery.

- Capacity is not static. Periodically re-assess a patient's capacity, as it can evolve with the patient's condition and understanding.

Steps to take if a patient lacks decision-making capacity

Review a Health Care Proxy or Power of Attorney document: Hopefully, there will be such a document in the medical record, which specifies an agent empowered to make health care decisions if the patient lacks capacity (see Fact sheet XXXX).

Reach Out to Family or Surrogates: Get in touch with the patient's next-of-kin or surrogate decision maker. If finding someone gets tricky, a medical social worker can help locate family or surrogates.

Emergency Situations: If you're in a crunch with no surrogate in sight, or if there's just no time to find one due to the urgent nature of the treatment, you, as the primary physician, can go ahead with what you believe is best for the patient. This falls under the "emergency exception" rule. Document your decisions and actions in the medical record as soon as you can.

When Family Isn't Available or Willing: If you can't locate next-of-kin, or the ones found aren't able or willing to be involved, reach out to Bioethics or Risk Management. They can help set up a committee for unrepresented patients.

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