

The Regional Geriatric Advisory Committee Primary Care Subcommittee presents:

Capacity and Consent: A 3-Part CME Webinar Series



Capacity to Consent to Treatment **Oct 22, 2014**

Capacity to Consent to Admission to Care Facility – Nov 18, 2014

Capacity to Consent for Property – Dec 16, 2014

12:15-12:45 PM

This program meets the accreditation criteria of the College of Family Physicians of Canada and has been accredited by the uOttawa's, Office of Continuing Professional Development for up to .5 Mainpro-M1 credits.

Capacity & Consent I



TREATMENT DECISION

Faculty/Presenter Disclosure



- **Faculty:** Dr. Louise Carrier
- **Relationships with commercial interests:** **NONE**
 - **Grants/Research Support:**
 - **Speakers Bureau/Honoraria:**
 - **Consulting Fees:**
 - **Other:**

Who are you?



- a) **Doctor**
- b) **Nurse/ Nurse practitioner**
- c) **Social worker**
- d) **Case Manager**
- e) **Other**

Objectives



Participants will be able to:

- Define the meaning of capacity and consent for treatment decisions
- Assess capacity and identify senior's at risk
- Apply the knowledge using a case study (develop an action plan)

Definition: Decision-making Capacity



A person is capable of consenting to a treatment if the person is able to:

- **UNDERSTAND** the information that is relevant to making a decision about the treatment **AND**
- **APPRECIATE** the reasonably foreseeable consequences of a decision or lack of decision

Definition: Informed Consent



- Provision of information in a language that is understandable including diagnosis, proposed treatment/alternatives, risks and benefits of treatments and no treatment
- Need to be coercion free
- Need medical decision-making capacity

Who assesses capacity?



- It is the health practitioner proposing the treatment who must assess whether the individual is capable of giving consent. A “health practitioner” is a member of one of the regulated health professions.
- “Treatment” means anything that is done for a therapeutic, preventive, palliative, diagnostic, cosmetic, or other health-related purpose and includes a course of treatment or plan of treatment.

How to assess capacity to consent to treatment decision



- Does the person understand the condition for which a specific treatment is proposed?
- Is the person able to explain the nature of the treatment and understand relevant information?
- Is the person aware of the possible outcome of treatment, alternatives or lack of treatment?
- Are the person's expectations realistic?
- Is the person able to make a decision and communicate a choice?
- Is the person able to manipulate the information rationally?

Aid to capacity evaluation (ACE)

Question



Of the following statements which ONE is TRUE regarding the need to formally assess capacity to consent?

- a) Only when patient is confused or in delirium
- b) Once a year after age 80
- c) If previously found incapable then there is no need to assess for capacity
- d) Only when incapacity is suspected

Question



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Seniors at Risk



- Evidence of confusion: dementia, delirium
- Presenting to ER for an acute medical problem
- Major depression and/or severe anxiety/ psychosis/ chronic pain
- Complex treatment decision required: surgery, dialysis, ECT, end of life, refusal of treatment
- Any change from previous behaviours, beliefs, values with potential to cause harm

Question



The patient disagrees with your finding of incapacity, which ONE of the following statements is TRUE.

- a) He/she has no recourse. The substitute decision maker (SDM) will make the treatment decisions.
- b) He/she may contest your decision with the Consent & Capacity Board (CCB).
- c) The physician will withhold all future communications with the patient and only speak with the SDM
- d) He/she may apply directly to the Ontario Public Guardian & Trustee (OPGT) for a second opinion

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Question



If the patient has no named Power of Attorney (POA), of the following potential SDM, which ONE has the highest ranking?

- a) Ex spouse
- b) Common-law partner
- c) Adult child
- d) Sibling (brother/sister)
- e) Public Guardian & Trustee

Question



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- c) Adult child
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SDM

Substitute Decision Maker



- Guardian of the person
- Attorney for personal care
- Representative appointed by the Board (under section 33)
- Person's spouse or partner.
- Adult child or parent of the incapable person
- Brother or sister of the incapable person.
- Any other relative of the incapable person.
- Office of the Public Guardian and Trustee

HCCA 1996, 20 (1).

Case Study



Mrs A is an 84 year old widow living alone in an Ottawa Housing apartment. She has mild dementia (MMSE 24/30). Over the last 6 months she has developed a delusional belief that her daughter is stealing from her, despite a lack of evidence, and this is causing significant distress. Mrs A is refusing all assistance. You would like to treat the paranoia with an atypical antipsychotic medication.

Question



From this very limited vignette, what is the likelihood that Mrs A would be incapable of consenting to treatment?

- a) 0-10%
- b) 11-30%
- c) 31-50%
- d) 51-75%
- e) > 75%

Question



What would be your first STEP?

- a) Assess Mrs A's capacity for treatment decision**
- b) Ask her daughter to make the treatment decision as Mrs has a diagnosis of dementia**
- c) Add risperidone to her Dispill, hoping that after a few doses she will be more reasonable**
- d) Request a formal assessment of capacity by a recognized capacity assessor**

Question



What would be your first STEP?

- a) **Assess Mrs A's capacity to consent for treatment decision**
- b) Ask her daughter to make the treatment decision
- c) Add risperidone to her Dispill, hoping that after a few doses she will be more reasonable
- d) Request a formal assessment of capacity by a recognized capacity assessor

How does one arrange for a second opinion regarding capacity to consent to a specific treatment



- For an inpatient on a medical or surgical floor, request a consultation from the psychiatric service or the neuropsychology service, if available, or another health care practitioner.

- For an outpatient, you may request a consultation from the Geriatric Psychiatry Community Services of Ottawa
75 Bruyère Street, Room 131Y, Ottawa, ON K1N 5C8
Phone: (613) 562-9777 Fax: (613) 562-0259

or

Royal Ottawa Hospital Geriatric Psychiatry Services
1145 Carling Avenue, Ottawa, ON K1Z 7K3
Phone: (613) 722-6521 ext. 6507 Fax: (613) 798-2999

or

a psychiatrist in private practice

- For a patient living in a nursing home, you may refer to the outreach geriatric psychiatry services providing care in the facility

Question



What essential information(s) would you need to provide to the SDM about the proposed treatment?

- a) Potential benefits
- b) Potential adverse effects
- c) Alternative treatment choices (including no treatment)
- d) (a) + (b)
- e) All of the above

Question



What essential information(s) would you need to provide about the proposed treatment to obtain informed consent?

- a) Potential benefits
- b) Potential adverse effects
- c) Alternative treatment choices (including no treatment)
- d) (a) + (b)
- e) **All of the above**

elements of informed consent

Question



Mrs A, was found incapable to make the treatment decision, which you now have obtained from her SDM, but Mrs A refuses to take any pills. What would be your next step?

- a) Discuss alternative routes of administration with SDM**
- b) Do not treat as this could be viewed as battery**
- c) Go to the Capacity & Consent Board (CCB) for direction**
- d) Consider a FORM 1 for a psychiatric evaluation**

Question



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- d) Consider a FORM 1 for a psychiatric evaluation

Question



Other daughter from Vancouver calls you to express her disagreement with her sister's decision regarding treatment for their mother. What should your next step be?

- a) Listen to daughter's complaint and stop all treatment
- b) Listen to daughter's complaint but follow direction from SDM
- c) Have a family meeting to address unresolved issues /misunderstanding
- d) Refer to CCB for direction

Question



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SDM of equal ranking

Question



Mrs A's apartment has a bed bug infestation. She refuses to have the city send a pest terminator to fumigate her apartment. What can be done?

- a) Daughter, acting as POA, can force her apartment to be opened for fumigation**
- b) City of Ottawa can unilaterally decide to act and fumigate her apartment despite her protest**
- c) Nothing can be done under the Health Care and Consent law**
- d) Eviction notice can be started under the Tenant and Landlord Act**

Question



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References



- [Health Care and Consent act 1996](#)
- [Consent to medical treatment-CPSO](#)
- **Substitute Decisions Act, 1992** http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_92s30_e.htm#BK58
- **Guide to SDA**
<http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/pgtsda.pdf>
- **Office of Public Guardian and Trustee: treatment decision**
416-314-2788 , [OPGT](#)
- **A Practical Guide to Capacity and Consent Law of Ontario for Health Practitioners Working with People with Alzheimer Disease - The Dementia Network of Ottawa**
[PracticalGuideConsent.pdf](#)

How does a person make an application to the Consent and Capacity Board?



- The person may contact the Consent and Capacity Board Office at 151 Bloor Street West, 10th Floor, Toronto, Ontario, M5S 2T5. Phone: (416) 924-4961 or 1-800-461-2036, Fax: (416) 924-8873.
- The Board's website is available at: [CCBoard](#)



Use your chat box.....