Decision-Making Capacity

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Objectives

• Define the terms decision-making capacity and competency
• Identify warning signs that a person’s decision-making capacity may be impaired.
• List items that need to be documented to support an assessment of decision-making capacity (the 6 C’s).

Definitions

• Decision-making capacity – Health care providers determine and document decision-making capacity. Capacity is a clinical assessment of a person’s ability to make specific decisions in specific situations.

• Competency – Competency is a legal term. Lack of competency is determined by the court. It is a legal judgment about an individual’s ability to perform certain tasks for themselves.

Areas of Decision-Making Capacity

• Appoint a DPOA - Health Care
• Medication management
• Decisions about medical care
  Treatment planning
  Refusal of care
• Live Safely at Home and Provide Self-care
• Manage Finances

Decision-Making Capacity

• People are assumed to have the capacity to make decisions unless proven otherwise.
• Often called into question during doctor/staff-patient interaction, especially in certain situations:
  -- Refusal of treatment
  -- Decisions with high risk
  -- Concerns about the Living Situation
  -- Abuse or Neglect
• People have the right to make bad decisions . . .

Decision-Making Capacity

• We should also document a person’s capacity to make decisions to which we agree . . .

• Informed Consent
  -- Provided with adequate information . . .
  -- Free from coercion
  -- Medical Decision-making Capacity
Decision-Making Capacity

- Odd behavior does not mean that a person has impaired decision-making capacity.
- The presence of a psychiatric disorder does not mean that a person lacks decision making capacity.
- A diagnosis of dementia does not automatically mean someone is incapable of decision making.

Decision Making Capacity

- Communication
- Culture
- Choices
- Circumstances
- Consequences
- Consistency

Communication

- Communication
  -- Ability to receive information
  -- Ability to express a choice
- Barriers to Effective Communication
  -- Hearing and Vision Impairments
  -- Language Barriers
  -- Health Literacy

Presbycusis

Address using the last name
Face the person at eye level
Speak clearly in low tones
Do not shout
Maintain an unhurried pace

Language

- What is the person’s primary language?
- What language does the person feel most comfortable speaking?
- Does the person read and write English?
- Will an interpreter be needed?
- Does the person have assistance at home from someone who can understand the written directions?

Health Literacy

Even people who read well and are comfortable with numbers can face health literacy issues when they . . .

- aren’t familiar with medical terms
- aren’t familiar with how their bodies work
- have to interpret statistics and evaluate risks and benefits
- are scared and confused.
- require complicated self care.

https://www.cdc.gov/healthliteracy/
Culture

• Doorway Thoughts
  GeriatricsCareOnline.org
  - 1 year subscription $30 (or $5 per chapter)

• Ethnogeriatrics
  Stanford School of Medicine
  - geriatrics.stanford.edu

Culture

• Questions
  -- Who lives in your household?
  -- Is there someone that you would want involved in your health care decisions?
  -- How do you want them involved?

Culture

• African American Older Adults
  • Family members generally expect to be involved in discussions and decision making . . . Many older African-Americans have fictive kin . . .

• American Indian Older Adults
  • Many decisions are made in a family unit that includes people outside the immediate nuclear family . . . favor some specific kinsman, such as a mother’s brother or paternal aunts . . . the cultural identities of American Indians vary widely . . .

• Arab American Older Adults
  • Men in the American Arab family may be considered to have more authority with regard to medical decisions than women.

Culture

• Asian Indian American Older Adults
  • Indian culture tends to emphasize interconnectedness and downplay individualism . . . important decisions are made after consulting with family . . . if there is a medical professional within the family, he or she will be called upon . . .

• Chinese American Older Adults
  • Chinese culture emphasizes and values family involvement and group decisionmaking . . . however, with different degrees of acculturation, this varies among individual patients . . . Many Chinese may be reluctant to discuss end of life issues due to the belief that if you talk about something bad, it could occur.

Decision Making Capacity

Potential barriers to assessment

• Communication
• Culture
  The ability to understand, appreciate, and reason
• Choices
• Circumstances
• Consequences
• Consistency

Choices

• Medical
• Living Situation
• Financial
Circumstances

• Questions:
  - **Medical**: Please tell me in your own words what have told you about . . .
  - **Living Situation**: What is most difficult for you at home?
  - **Financial Concerns Checklist**: [http://www.fcnb.ca/lifestyles/financial-resources-for-seniors.html](http://www.fcnb.ca/lifestyles/financial-resources-for-seniors.html)

Consequences

• The ability to grasp the situation and its consequences.
  - Comprehension is not the same as appreciation
  - Must understand the situation in relation to the patient him/herself
  - Understand, Appreciate, and Reason

Consequences

• Questions
  -- What do you think is likely to happen to you if
    • you choose not to have the treatment?
    • you chose to have the treatment?
  -- Could you tell me how you came to make this decision?

Decision Making Capacity

• Potential barriers to assessment
  - **Communication**
  - **Culture**
    The ability to understand, appreciate, and reason
  - **Choices**
  - **Circumstances**
  - **Consequences**
    The big picture
  - **Consistency**

Consistency

• The decision is consistent over time
• The decision is consistent with the persons underlying beliefs and values.

• Questions:
  - Does this decision make sense in light of life-long values and decisions? (family and friends may provide insight into the decision)

Decision-making Capacity

• Capacity is a clinical assessment of a person’s ability to make specific decisions in specific situations.

• Decision-making Capacity is not an ‘all or nothing’ determination.
  - An individual found to be incapable in one area does not necessitate incapability in another.
  - Lack of Capacity should not be taken to mean that patients cannot participate in decision making at all.
  - If a physician determines that decision-making is incapacitated, then consider whether the person’s capacity can be optimized
Decision-making Capacity

- Assessing Capacity takes into consideration the higher degree of reasoning and understanding required for high-risk, complex decisions.

Maintaining Objectivity

- Be very aware of own values/morals
- Work hard at being objective even when you disagree with patient's choices (e.g., freedom over safety)
- The Goal is to maximize safety, independence, & autonomy, with the least restrictive methods
- Identify strategies to reduce risk and to improve a persons ability to make decisions
- Maintain Dignity & Respect

Decision Making Capacity

- If a person's decision-making capacity is in question, documentation your observations is very important.
  - Communication
  - Culture
  - Choices
  - Circumstances
  - Consequences
  - Consistency

Advance Care Planning

- Durable Power of Attorney for Health Care
- 5 Wishes
- Mi- POST – Michigan Physician Orders for Scope of Treatment

Durable Power of Attorney for Health Care

- “A patient advocate designation is a voluntary, private agreement by which an individual of sound mind chooses another individual to make care, custody, and medical treatment decisions for the individual making the designation.”
- “The document must be signed and witnessed to be legally binding. The individual can revoke the agreement at any time. The document is not filed with the court; the court is not involved unless a dispute arises.”

Acting as Patient Advocate

- Before a patient advocate can act, two events must occur:
  -- Patient advocate must sign an “acceptance”
  -- Two physicians, or one physician and one fully-licensed doctoral-level psychologist, must examine the individual and determine he or she is unable to participate in treatment decisions

5 Wishes  My wish for:

...the person I want to make care decisions for me when I can’t.
...the kind of medical treatment I want or don’t want.
...how comfortable I want to be.
...how I want people to treat me.
...what I want my loved ones to know.

https://agingwithdignity.org/five-wishes/about-five-wishes

Mi - POST

• Michigan Physician Orders for Scope of Treatment
  • “First follow these orders, then contact physician. This is a Medical Order Sheet based on the person’s medical condition and treatment decisions. Any section not completed does not invalidate this form and implies full treatment for that section.
• Name: Date of Birth: Gender: Last 4 SSN:
  http://www.honoringhealthcarechoicesmi.org

Mi-POST

• CARDIOPULMONARY RESUSCITATION (CPR)
  • Attempt Resuscitation / CPR
  • DO NOT Attempt Resuscitation / CPR (DNR/No CPR)
• MEDICAL INTERVENTIONS
  • Advanced Interventions (includes intensive care)
  • Limited Interventions (transfer to hospital, if indicated)
  • Comfort Measures Only
• ARTIFICIALLY ADMINISTERED NUTRITION: Always offer food by mouth if feasible.
  • Long-term artificial nutrition
  • Defined trial period of artificial nutrition
  • No artificial nutrition

DOCUMENTATION OF DISCUSSION
• Patient
• DPOA-HA
• Court-appointed Guardian
• Other Authorized Representative (specify):
• SIGNATURE OF PHYSICIAN, NURSE PRACTITIONER, OR PHYSICIAN ASSISTANT
• SEND FORM WITH PERSON WHENEVER TRANSFERRED OR DISCHARGED
• HIPAA PERMITS DISCLOSURE OF POST TO OTHER HEALTHCARE PROFESSIONALS AS NECESSARY

References

The Arizona Center of Aging. Medical Decision-making Capacity.
http://aging.arizona.edu/sites/default/files/medical_decision_making.pdf


The Aid to Capacity Evaluation (ACE) Tool.
http://www.jcb.utoronto.ca/tools/documents/ace.pdf

