

Guide for Assessing Medical Decision-Making Capacity

The primary physician or supervising healthcare provider will determine a patient's decision-making capacity unless the patient has directed in a written advance directive that someone else should make that determination. Capacity may vary, and the patient may have capacity for some decisions and not for others. Patients should be allowed to make as many healthcare decisions as possible. The following are the basic components of medical decision-making capacity:

- Does the patient *understand* the basic medical situation?
- Does the patient *understand* the nature of the decision being asked of him or her?

Understanding includes the following:

- Implications – what the treatment entails; the benefits, risks, and most likely outcomes
- Alternatives and their implications, including the implication of deciding not to decide
- Significance – what the treatment options and their implications might mean for the person's goals and quality of life
- Communication – can the patient communicate a decision?

If and when the primary physician or supervising healthcare provider has determined that the patient lacks capacity for a given decision or decisions, that determination should be documented in the person's medical record. It should also be documented if and when the patient regains capacity for a given decision or decisions.

Some further issues to consider include:

- Have all barriers to communication been removed (e.g., sedating medications, time, privacy of setting, appropriate interpreting or translation services or devices)?
- Does the patient have all of the information necessary in order to make a reasonably informed decision?
- Has the patient formed an opinion regarding what should be done?
- What is the basis for the opinion? Can the patient articulate a rationale for their decision, based on understanding, goals, and values? (Note: The decision might not "make sense" to the provider, but it should make sense to the patient.)
- Are there cultural factors to be taken into account, such as cultural preferences for involving family members in decision making, or deference to adult children or parents?
- Is the decision stable over a reasonable period of time?
- Are there factors that may be unduly influencing the patient's true views and wishes (threats or overwhelming opinions expressed by family members, concerns about financial abuse, pending divorce, etc.)? Can these be mitigated?
- Consider consultation, such as a family meeting, social services, or ethics committee, if uncertainties exist regarding any of the above assessments or the validity of the decision expressed.