

Who is a Capacity Assessor?

A capacity assessor is a healthcare professional who (a) is a member of one of the Colleges specified in the Health Care Consent Act 1996; (b) has completed an approved training course; and (c) is covered by a minimum of \$100,000 in liability insurance. In addition to assessments of capacity for decisions related to personal care and long-term care admission, a capacity assessor is authorized to assess capacity to make property decisions.

When do you need to involve a capacity assessor?

A capacity assessor should be involved when:

- A formal capacity assessment is specified as the method of determining incapacity in a Power of Attorney document; or
- One has reasonable grounds to believe that a person is incapable with respect to property decisions and is suffering or at risk of suffering serious adverse effects as a result of his/her incapacity.

Do individuals need to be informed of the findings of incapacity?

Yes. Individuals need to be informed of a finding of incapacity and provided with information about their rights, including the right to appeal the decision through the Consent and Capacity Board.

On-line resources:

Consent and Capacity Board

<http://www.ccboard.on.ca/>

Health Care Consent Act

http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/96h02_e.htm

Substitute Decisions Act

http://www.e-laws.gov.on.ca/DBLaws/Statutes/English/92s30_e.htm

To speak to St. Joseph's Health System's Bioethicist, please call 905-522-1155 ext. 33866. If it is after business hours or on weekends, please speak to your healthcare team to have the Bioethicist on-call paged.

St. Joseph's Healthcare System is a member of the Centre for Clinical Ethics at St. Michael's Hospital in Toronto.

Capacity Assessment

How to determine when a person can make healthcare decisions for him/herself



St. Joseph's
Healthcare  Hamilton

Capacity Assessment

70 year old Mohamed Daar recently had a stroke and is unable to speak. He has difficulties swallowing and is at high risk for aspiration. The healthcare team is proposing that a feeding tube be inserted.

Isabella Stewart, a frail 84 year old woman, is recovering from a broken hip. She wants to go home, but doesn't seem to understand the associated safety risks.

67 year old Hadi Darmali recently immigrated to Canada and his English is very limited. He has recently been diagnosed with Alzheimer's disease. He also has bone cancer and a decision about whether or not to undertake further chemotherapy treatment needs to be made.

What is capacity?

A person is considered to have capacity with respect to making a treatment decision if he/she has the ability to understand the information that is relevant to the treatment decision, is able to appreciate the foreseeable consequences of consenting or refusing to consent to the treatment, and is able to reach a decision. There is a presumption of capacity, unless there are reasonable grounds to suggest incapacity.

How is Capacity assessed?

Capacity assessment is the responsibility of the healthcare provider by asking the individual questions related to the treatment decision. It may be supplemented by administering standardized tests and procedures that measure cognitive ability.

It is important to note that capacity is decision-specific. An individual may be able to make a simple, less complex decision, but unable to make more difficult decisions that have potentially serious consequences.

What factors can affect Capacity?

Treatable underlying physical and psychological conditions, such as depression, dehydration, infection and fatigue.

An injury or disease that is not curable or likely to improve, such as Alzheimer's Disease.

What indicators should prompt further assessment?

If an individual exhibits any of the following:

- Confused and irrational thinking
- Inability to retain information
- Fluctuating wishes and alertness
- Level of suffering that impairs understanding

What individual indicators alone do not determine incapacity?

Incapacity is not directly related to any of the following factors:

- Advanced age
- Language barriers
- Psychiatric illness
- Physical disability and/or communication orders
- Refusal of treatment
- Lower levels of education
- Cultural/Religious background
- Idiosyncratic or unusual beliefs

* Hébert, P.C. (1996). *Doing right: A practical guide to ethics for medical trainees and physicians*. Toronto: Oxford University Press.

Who is an Evaluator?

A healthcare professional who is a member of one of the Colleges specified in the *Health Care Consent Act 1996*. An evaluator can assess capacity related to treatment decisions, personal assistance devices and discharge planning. Community Care Access Centre's staff assesses capacity to a Long-term Care Facility.