

KNOWING YOUR CAPACITY

Arlin Pachet, Ph.D., ABPP-CN

Board Certified Clinical Neuropsychologist

Presentation Overview

- ❖ Capacity Review: In brief
- ❖ Assessment Processes - Ponoka
 - ❖ Consent
 - ❖ Screening
 - ❖ Tools
 - ❖ Assessment Measures
- ❖ Cases

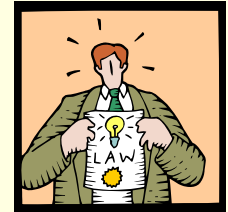
Capacity

- ❖ Do we use the term competency?
 - ❖ No, we do not!!!

- ❖ Do we rely upon the MMSE?
 - ❖ No we do not!!!



The Acts & Capacity



Pertinent Legislation	MHA	DAA/ AGTA	PDA
Named Assessor(s)	<ul style="list-style-type: none"> ■ One physician for 24 hours ■ Two physicians for 30+ days 	<ul style="list-style-type: none"> ■ One physician or psychologist 	<ul style="list-style-type: none"> ■ Named assessor with consultation & ■ One physician/psychologist and another health care provider
Length of Surrogacy	<ul style="list-style-type: none"> ■ 24 hours to 30+ days 	<ul style="list-style-type: none"> ■ 6 years ■ Or as determined by a judge 	Indefinite unless application for review made

Capacity and Financial Matters

❖ Enduring Power of Attorney

- ❖ Springing
- ❖ Immediate



❖ Power of Attorney

- ❖ Question – Can a PD be immediate?

Assessment Processes: Overview

- ❖ Full multi-disciplinary assessment
 - ❖ Triage of medical / psychiatric status
 - ❖ Functional assessment
 - ❖ Neuropsychological evaluation
 - ❖ Functional inquiry
 - ❖ Determination - Team decision or designated assessor?

Assessment Processes

Threshold Trigger Screen

- ❖ Clarify triggers by exploring the evidence for and against incapacity
- ❖ Detailed review of medical and psychiatric factors potentially affecting capacity
- ❖ Know the rule-outs prior to proceeding

Assessment Processes

- ❖ A capacity assessment can be very time intensive and intrusive
- ❖ ++ Important to screen referrals to rule-out
 - ❖ Reversible conditions
 - ❖ Secondary gain issues
 - ❖ Situations where less intrusive approaches are appropriate
- ❖ Do we assess capacity in a delirious patient?

Assessment Processes

Criteria to Proceed

- ❖ Injury / Illness affecting cognition, emotions, or behaviour

AND

- ❖ Significant change in behaviour
- ❖ Behaviour puts him/herself or others at significant risk of harm AND the adult repeatedly refuses help that would reduce the risk

Assessment Processes

Common Triggers

- ❖ Discharge planning!
- ❖ Values/Beliefs in conflict with staff
- ❖ Questionable understanding and appreciation
- ❖ Makes a choice, but is unable to carry it out or to direct someone else to do so (initiation)
- ❖ Evidence that the patient is easily led and taken advantage of

Assessment Processes

Informed Consent

- ❖ Understands and appreciates:
 - ❖ Nature of the assessment
 - ❖ Purpose of the assessment
 - ❖ Potential outcome of assessment
- ❖ Three strikes and your out!

Assessment Processes

Informed Consent

- ❖ Understands and appreciates:
 - ❖ Nature of the assessment
 - ❖ Purpose of the assessment
 - ❖ Potential outcome of assessment
- ❖ Three strikes and your out!

Assessment Processes

Informed Consent

- ❖ The threshold to consent to a formal assessment requires that the patient understand what competencies are in question, as well as the nature, purpose and possible consequences of the capacity assessment.

Assessment Processes

Informed Consent

- ❖ What happens if the client is capable of giving informed consent, but declines the assessment?
 - ❖ Assessment process terminated
 - ❖ Mental Health Certification
 - ❖ Insufficient Risk

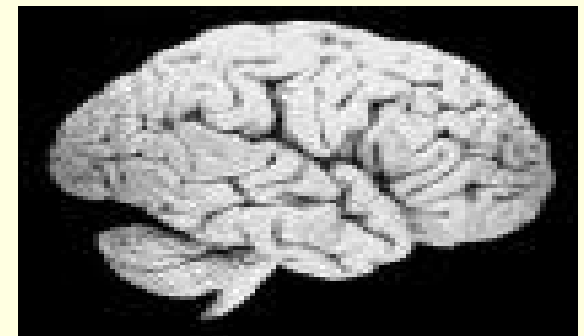
Assessment Processes

Assent versus Consent

- ❖ Repeated explanations
- ❖ Unable to provide information related to purpose of assessment
- ❖ Willingness to answer questions about their situation
- ❖ Proceed with two signatures
- ❖ Implications for PDA

Neuropsychological Assessment

- ❖ Testing Environment & Process
- ❖ Loaded with memory and executive functioning – but how much?
- ❖ Potential Testing Confounds
 - ❖ Motivation – Is this an issue?
 - ❖ Fatigue
 - ❖ Stress / Anxiety



Functional Assessment

- ❖ Person-Environment-Occupation dynamics – How does it hit the payment?
- ❖ Safety issues/risk factors
- ❖ Strengths/abilities
- ❖ Assessment methods
 - ❖ ILS / SAFER TOOL
 - ❖ Home Visit



The Gold Standard

Functional Inquiry – Capacity Interview

- ❖ **Three core components**

- ❖ **Understanding:** adequate factual knowledge base and understanding of options
- ❖ **Appreciation:** adequate appraisal of outcome and justification of choices
- ❖ **Initiation:** ability to follow through with choices

The Gold Standard – Key Areas

Functional Inquiry Personal

- ❖ **Medical Conditions**
- ❖ **Medication Regime**
- ❖ **Consent to Treatment**
- ❖ **Suitability of Residence**
- ❖ **Choice of Associates**
- ❖ **Legal Matters / PD (get it!!)**
- ❖ **Values / Beliefs**

The Gold Standard – Key Areas

Functional Inquiry Financial

- ❖ Financial Management
- ❖ Collateral Comparisons
 - ❖ Income, Assets, Expenses
- ❖ Legal Matters / EPOA (get it!!)
- ❖ Values / Beliefs

The Gold Standard

Functional Inquiry – Influencing factors

- ❖ Congruence with values and beliefs
- ❖ Considering the influence of personal and cultural/religious values, beliefs, and goals on decision-making
- ❖ Know your own risk tolerance and own values
- ❖ Protectionist stance

Functional Inquiry: Personal

Domain	Trigger	Response to Query	S	B	D
Health care					
Medical conditions: <ul style="list-style-type: none"> •Able to identify medical condition(s) & symptoms •Able to identify treatment(s) •Awareness of current care needs (Including diet) •Acute Care: able to state reason for admission •Response to emergencies 		U:			
		A:			
		I:			

Case Example: Darlene



Case Example: Darlene

- ❖ Widowed, daughter and nephew involved in care
- ❖ 68 y.o. seen in transition unit
- ❖ Was living independently prior to admission
- ❖ Supports already in place – HC, Lifeline, equipment
- ❖ Admitted to hospital w/ right MCA infarct – Now 6 months post

Case Example: Darlene

- ❖ Darlene currently uncooperative with assessments – Delirious?
- ❖ Issue of narcotic misuse prior to admission
- ❖ Other medical / psychiatric history
- ❖ Initially unclear if EPOA/PD written

Case Example: Darlene

- ❖ Reason for referral
 - ❖ Patient wants to return home and refuses further assessment or assistance
- ❖ ? Family dynamics and supports at home
- ❖ Indications of financial abuse and financial mismanagement

Case Example: Darlene

- ❖ So, what are the triggers?
- ❖ Evidence?
- ❖ What other questions do you need to ask? WHY NOW?
- ❖ What are the domains to be assessed?

- ❖ Consent Process

Case Example: Darlene

- ❖ OT assessment results
- ❖ Cognitive assessment results
- ❖ Capacity Interview - Personal
 - ❖ **Health Care Matters**
 - ❖ **Choice of Residence**
 - ❖ **Legal Matters**
 - ❖ **Choice of Associates**
- ❖ Capacity Interview - Financial

Case Example: Darlene

- ❖ So, what is the consensus?
 - ❖ Is she capable or incapable?
 - ❖ Next steps?
 - ❖ What documents need to be completed, if any?

Case Example: Didi



Case Example: Didi

- ❖ Single, 31 year old female
- ❖ Lives with boyfriend
- ❖ Extremely severe TBI – MVA
- ❖ Seen on rehab unit, now 10 months post-injury
- ❖ Seizure disorder
- ❖ Prior medical / psychiatric history
- ❖ No PD or EPOA written

Case Example: Didi

- ❖ Reason for referral
 - ❖ Patient wants to return home – no Ponoka
 - ❖ Team members disagree re: capacity
 - ❖ Can patient write PD?

Case Example: Didi

- ❖ So, what are the triggers?
- ❖ Evidence?
- ❖ What questions do you need to ask?
- ❖ What are the domains to be assessed?

- ❖ Consent Process

Case Example: Didi

- ❖ OT assessment results
- ❖ Cognitive assessment results
- ❖ Capacity Interview - Personal
 - ❖ **Health Care Matters**
 - ❖ **Choice of Residence**
 - ❖ **Legal Matters**
- ❖ MOCA

Case Example: Didi

- ❖ So, what is the consensus?
 - ❖ Is she capable or incapable?
 - ❖ Next steps?
 - ❖ What documents need to be completed, if any?

Case Example: Archie



Case Example: Archie

- ❖ Married, 71 year old man
- ❖ Was living at home with wife
- ❖ No prior ADL / IADL issues reported
- ❖ Anoxic brain injury – secondary to MI
- ❖ Seen on rehab unit, now 7 months post-injury
- ❖ Prior medical / psychiatric history - unremarkable

Case Example: Archie

- ❖ Reason for referral
 - ❖ Patient wants to return home
 - ❖ Team members uncertain re: capacity determination
 - ❖ No PD or EPOA written

Case Example: Archie

- ❖ So, what are the triggers?
 - ❖ Evidence?
 - ❖ What questions do you need to ask?
 - ❖ What are the domains to be assessed?
-
- ❖ Consent Process

Case Example: Archie

- ❖ OT assessment results
- ❖ Cognitive assessment results
- ❖ Capacity Interview - Personal
 - ❖ **Health Care Matters**
 - ❖ **Choice of Residence**
 - ❖ **Legal Matters**
 - ❖ **Choice of Associates**

Case Example: Archie

- ❖ So, what is the consensus?
 - ❖ Is he capable or incapable?
 - ❖ Next steps?
 - ❖ What documents need to be completed, if any?

Case Example: Phil



Case Example: Phil

- ❖ Married, 29 year old man
- ❖ Was living at home with wife and two kids
- ❖ No prior ADL / IADL issues reported
- ❖ L-hemisphere stroke – Where?
- ❖ Seen on rehab unit, now 5 months post-injury
- ❖ Prior medical / psychiatric history - unremarkable

Case Example: Phil

- ❖ Reason for referral
 - ❖ Unsure if patient can consent to medical treatment
 - ❖ Unsure if patient can participate in discharge planning
 - ❖ No PD or EPOA written
 - ❖ Complexities of assessing patients with aphasia

Case Example: Phil

- ❖ So, what are the triggers?
- ❖ Evidence?
- ❖ What questions do you need to ask?
- ❖ What are the domains to be assessed?

- ❖ Consent Process

Case Example: Phil

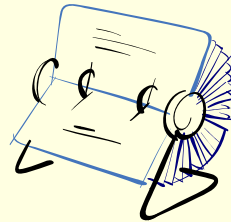
- ❖ OT assessment results
- ❖ Cognitive assessment results
- ❖ Capacity Interview - Personal
 - ❖ **Health Care Matters**
 - ❖ **Choice of Residence**
 - ❖ **Legal Matters**

Case Example: Phil

- ❖ So, what is the consensus?
 - ❖ Is he capable or incapable?
 - ❖ Next steps?
 - ❖ What documents need to be completed, if any?

Contact Information

Dr. Arlin Pachet



Ph: 403-807-1593
Fax: 403-770-8497