Assessing Decision Making Capacity in Patients with Medical or Psychiatric Conditions

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Learning Objectives

Understand the abilities underlying capacity to consent to treatment.

Learn how to assess capacity for consent in medical and psychiatric settings.

Learn how to maximize the patient's capacity for consent when possible.

Understanding the concept of sliding thresholds in the determination of capacity for consent.

Informed Consent

A basic ethical component of patient care.

Assures that the patient receives necessary information, understands it, and makes a voluntary (uncoerced) choice regarding treatment.

Simple…..right?

Balancing Act

Freedom / Autonomy vs. Duty to Protect

(Highly) Recommended Reading

Assessing Competency to Consent to Treatment

(Thomas Grisso & Paul Appelbaum, 1998, Oxford University Press).

Competence

Technically a legal term

What we assess as clinicians is *decisional capacity*

One with adequate decisional capacity will usually be judged to be competent

Incompetence

Incompetence constitutes a status of the individual that is defined by functional deficits (due to mental illness, [intellectual disability], or other mental conditions) judged to be sufficiently great that the person currently cannot meet the demands of a specific decision-making situation, weighed in light of its potential consequences.

(Grisso & Appelbaum, 1998)

When to assess decisional capacity?

Almost always, but especially when...

Patient shows change in mental status

Patient refuses standard treatment or seeks treatment that is especially risky

When there are multiple treatment options about which reasonable people might disagree

Patient has risk factors for impaired decisional capacity (psychiatric diagnosis, advanced age, acute stressor, medication effects, intoxication, etc.)

Assessment Strategies

Thorough clinical interview

Standardized structured interviews (e.g. MacArthur Competence Assessment Tool; MacCAT)

There is no gold standard instrument

Obtain collateral info whenever possible (from relatives, caregivers, neuropsychological testing, etc.).

Determination of Task Demands

What is the specific decision to be made?

How complex is it?

Determination of Consequences

Low risk situation? High risk?

If risk is low, threshold for capacity *could* arguably be somewhat lower than in a higher risk situation.

Assessment of Psychopathology

Presence of mental illness does not imply impaired decisional capacity, but it should raise the issue.

Our research at Iowa has shown that 80% of people with schizophrenia can provide informed consent, and those who cannot are able to benefit from enhanced consent procedures.

(D.J. Moser, et al., 2002, 2004)

Functional Abilities Related to Decisional Capacity

Understanding

Appreciation

Reasoning

Ability to express a choice

Understanding

Can the patient demonstrate comprehension of his/her medical condition, the recommended procedures, their risks/benefits, and the possible alternative treatments that are available?

Has the patient had the above sufficiently explained to him/her?

Appreciation

Does the patient understand *specifically* how the recommended treatment applies to him/her and how deciding whether or not to undergo treatment will affect him/her personally?

A patient can have perfectly intact understanding, but still have impaired appreciation.

Reasoning

Can the patient identify both the pros and cons of undergoing the treatment in question?

Can s/he determine whether the pros outweigh the cons?

Is his/her ultimate decision concerning treatment consistent with the above?

Expression of Choice

Can the patient communicate a treatment decision? (Does not necessarily need to be verbal)

Does that decision appear to be stable, or does the patient waver? Don't rush!

Criticism of this 4-Component Model

Too much emphasis on cognition

Not enough emphasis on patient's values, emotions

(See Palmer, BW, et al., Arch Clin Neuropsych, 2016)

Monitoring

Whenever possible, the assessment of decisional capacity should be approached as a *process*, not as an isolated event

In some conditions, decisional capacity can change during the course of the day.

Key Points to Consider

Neuropsychological testing can provide an objective, quantitative estimated of the patient's cognitive abilities, with specific emphasis on problem-solving, decision-making, and judgment

You may want to consider neuropsychological testing when the patient's decisional capacity remains unclear following less formal assessment

You may administer a cognitive screener – e.g. Montreal Cognitive Assessment (MoCA)

Key Points to Consider

A patient should not be considered as having decisional capacity or not across the board. Again, the specific situation must be taken into account.

In an extreme case (e.g. psychotic illness), a patient could have capacity to consent to CABG, but not to the extraction of a tooth.

Key Points to Consider

Even severe conditions such as major neurocognitive disorder (i.e. dementia) do not necessarily imply lack of decisional capacity.

However, such a diagnosis certainly raises the probability that the patient lacks capacity, and demands thorough assessment.

Key Points to Consider

Too often, a patient who agrees with his/her clinician is seen as having capacity, while one who disagrees is seen as lacking it.

Sliding Threshold Based on Beliefs about Patient's Reasonableness & Rationality

Dr.'s assessment of risk/benefit	Patient's decision	Doctor & Patient	Threshold for Capacity
Favorable	Consents	Agree	Low
Favorable	Refuses	Disagree	High
Unfavorable	Consents	Disagree	High
Unfavorable	Refuses	Agree	Low

Roth et al. Am J Psych, 1977; Appelbaum, N Engl J Med, 2007

So your patient seems to lack adequate decisional capacity… now what?

Are we ethically bound to try to remediate impaired decisional capacity?

Should we try to maximize decisional capacity for everyone regardless of their capacity?

Can decisional capacity be improved?

Simplified consent forms, decision aides

Interactive computerized learning aides & repeated exposure to material

Multimedia (e.g. video)

Enhance interviewing w/ corrective feedback

Improving Decisional Capacity

We used a semi-tailored intervention to significantly improve decisional capacity in schizophrenia

20 – slide PowerPoint presentation

Discussion of all MacCAT-CR items on which the participant did not earn maximal credit

Improving Decisional Capacity

Participants with baseline MacCAT-CR Understanding scores < 23 showed significant improvement (Cohen's d = .6, $p < .05$).

(Moser DJ et al., Schiz Bull 2006;32(1):116-120)

Isn't this just teaching to the test?

To some degree yes, but that's okay. You're not trying to improve the participant's general cognitive functioning – just his or her capacity to consent to a particular study.

Important to have the participant use his or her own words when conveying understanding of the study. Don't allow him or her to simply parrot back your words.

Not all participants can benefit sufficiently from such interventions.

Don't over-do it.

Take-Home Messages

Consider the specific situation – what is the patient making a decision about?

Be thorough. Take your time.

Decisional capacity can change – monitor it.

Be objective. Just because you disagree with a patient's decision does not mean s/he lacks decisional capacity!

Questions or Comments?

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