Slide 1

**Ethics in Capacity Assessment**

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Slide 2

**Today’s Goals**

- To reflect on what capacity assessment is, and what might improve it.  
- To share thinking on how capacity assessment fits into sound decision making processes.  
- To suggest that bedside clinicians ought to be more involved in capacity assessment, generally.  
- To invite you to consider your own approach.

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Slide 3

**Some Ethical Challenges in Capacity Assessment**

- No actual line between capable and incapable – an area of grey, actually.  
- How specific to be about what to test.  
- Balancing respect for patients’ liberty with concern for their safety.  
- Knowing what patients “would have said” when they were more capable.  
- When to assess formally.  
- When you fear that substitute decision makers might fail to provide good support.
Slide 4

Key Considerations

- A paradigm of "Shared Decision Making."
- Principle of "respect for autonomy."
- Relationship between law and ethics.
- Components of a well-made decision.
- "Appreciation of Consequences"
- Global vs. decision-specific assessment?
- Formal and informal assessment.

Slide 5

Key Considerations

- The capacity ‘grey zone’ in progressive decline.
- Standards of substitute decision making.
- Conflicts of Interest in surrogates.
- Advance care plans as aids
- Towards ‘collective’ capacity assessment?
- Relationship between assessor and assessee?

Slide 6

Optimizing Substitute Decision Making

- Create a formal general category between ‘capable’ and ‘incapable.’
- Increase role of bedside clinicians in mapping cognitive decline in patients they care for.
- Aim for using the ‘substituted judgment’ standard before ‘best interests.’
- Respect the Grey - adjust legislation further to promote decision-specific assessment.
- Involve a clinician who knows the patient well.
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Questions for Discussion

- In your experience, how well is the capacity of your patients assessed?
- How would you want your own future self to be assessed, when the time comes?
- Practical suggestions – how might we improve capacity assessment today?
- Other thoughts?

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