Ethics in Capacity Assessment

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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.
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.
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.
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?
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.
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?
Thanks

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ACP Tracking Record

Goals of Care Designation Order

Still Relevant.......?