

## CLINICAL ASSESSMENT OF THE MENTAL CAPACITY OF THE OLDER ADULT

*Martin G Cole, M.D., F.R.C.P.C. \**

### **Introduction**

Clinical assessment of mental capacity is one of the most frequent requests for geriatric psychiatry consultation. At St. Mary's Hospital, our service receives over 200 such requests each year. In most cases, the results of the assessment assist the older adult, the family, and the health care team in making decisions about the medical care and management of the older adult. In a small proportion of cases (less than 10%), it is necessary to refer the older adult and his or her family to the public curator or the courts.

What follows is a brief description of the clinical assessment of the mental capacity of the older adult: specifically, the ethical framework, the steps in the clinical assessment, and some of the challenges.

### **Ethical Framework**

The ethical framework for assessing the mental capacity of the older adult is similar to the ethical framework used for any medical assessment or intervention. This framework includes: (1) respect for human dignity; (2) respect for autonomy; (3) respect for vulnerable persons; (4) concern for the welfare of the individual (beneficence); (5) non-maleficence; and (6) maximizing benefit and minimizing harm.

### **Clinical Assessment of Mental Capacity**

The clinical assessment of the mental capacity of the older adult has 5 steps: (1) determination of the specific type of mental capacity to be assessed;

---

\* Geriatric Psychiatrist, St Mary's Hospital and Professor of Psychiatry, McGill University.

© Martin G Cole 2011

Citation: Martin G Cole, "Clinical Assessment of the Mental Capacity of the Older Adult" (2011) 5:2 MJLH 273.

Référence : Martin G Cole, « Clinical Assessment of the Mental Capacity of the Older Adult » (2011) 5 : 2 RDSM 273.

(2) collection of collateral information about the older adult from significant others and health care professionals; (3) general assessment of mental state; (4) specific assessment of mental capacity; and (5) judgment of mental capacity.

### ***Step 1: Determination of the Specific Type of Mental Capacity to be Assessed***

The first step in the clinical assessment of mental capacity is to determine the type of mental capacity to be assessed by interviewing the individual, agency, health care professional, or legal representative requesting the assessment. The type of mental capacity to be assessed determines the kinds of questions asked during the specific assessment of mental capacity.

There are as many potential types of mental capacity as there are potential issues about which older adults must have knowledge and make decisions, since capacity or lack of capacity is determined on an issue-by-issue basis. Some of the more commonly-assessed types of mental capacity include: capacity to consent to medical treatment, capacity to refuse medical treatment, capacity to manage finances, capacity to determine living circumstances, and capacity to make a will.

### ***Step 2: Collection of Collateral Information About the Older Adult***

The collection of collateral information about the older adult usually involves questioning significant others and health care professionals about: the past and present mental and physical functioning of the older adult; the older adult's illnesses, disabilities, and handicaps; the older adult's grasp of his or her limitations, and their willingness to accept help. This collateral information provides the background for the specific assessment of mental capacity in step 4 and is incorporated in the judgment about mental capacity in step 5.

### ***Step 3: General Assessment of Mental State***

The general assessment involves a clinical interview with the older adult to assess cognition, mood, psychotic symptoms, and personality. Assessment of cognition includes assessment of: orientation (to person, place, and time); concentration; short- and long-term memory; ability to learn new information; insight; and judgment. The Mini-Mental State Exam<sup>1</sup> is a brief tool that is fre-

---

<sup>1</sup> Marshal F Folstein, Susan E Folstein & Paul R McHugh, "Mini-Mental State": A Practical Method for Grading the Cognitive State of Patients for the Clinician" (1975) 12 Journal of Psychiatry Research 189.

quently used to assess cognition; scores range from 0 (severe impairment) to 30 (no impairment). Assessment of mood includes assessment for significant symptoms of anxiety, depressed or elated mood, and suspiciousness or fearfulness. Assessment of psychotic symptoms includes assessment for disorganized thinking, hallucinations, and delusions. Assessment of personality includes assessment for outstanding personality traits, past and current patterns of behavior, and relationships.

#### ***Step 4: Specific Assessment of Mental Capacity***

The specific assessment of mental capacity involves a clinical interview with the older adult to determine whether they have: (1) a factual understanding of the issues relevant to the specific mental capacity in question; (2) insight and appreciation of how the above facts apply to their situation; (3) sound reasoning in making decisions and finally; (4) the ability to choose between different options.<sup>2</sup> These 4 criteria for assessing mental capacity are arranged hierarchically: the older adult must first demonstrate factual understanding, then insight and appreciation, then sound reasoning, and finally, ability to choose. These 4 criteria may be used to assess all types of mental capacity, but the questions used to elicit the information for each criterion are specific to the type of mental capacity assessed (see the examples in the Tables 1 and 2). An alternate and frequently used set of criteria to assess mental capacity includes: (1) the older adult's understanding the concept of capacity; (2) their appreciation of their strengths and limitations with respect to capacity; (3) their demonstrated ability to have lived safely in the recent past; and (4) their continuing ability to make reasonable decisions.<sup>3</sup>

#### ***Step 5: Judgment of Mental Capacity***

The judgment of mental capacity is a complex clinical judgment that involves the weighting and synthesizing of the information collected in steps 2-4, and making a judgment about the older adult's capacity to make decisions

---

<sup>2</sup> Antoinette Ambrosino Wyszynski & Carol F Garfein, "Assessing Decisional Capacity and Informed Consent in Medical Patients: A Short, Practical Guide" in Antoinette Ambrosino Wyszynski & Bernard Wyszynski, eds, *Manual of Psychiatric Care for the Medically Ill* (Washington, DC: American Psychiatric Publishing, 2005) 221.

<sup>3</sup> MJ MacKay, "Financial and Personal Competence in the Elderly: The Position of the Canadian Psychiatric Association" (1989) 34:8 *Canadian Journal of Psychiatry* 829.

about specific issues. Although more information collected from more people (including the older adult) at many occasions in time increases the reliability and validity of the judgment, the judgment is often difficult. A number of clinical tools are available to assist in the assessment, documentation, and decision-making processes but these tools are not substitutes for thoughtful assessment.<sup>4</sup>

### **Challenges**

Despite best efforts to assess the mental capacity, the assessment is often challenging. Examples of these challenges include: pressure to complete assessments quickly because management decisions must be made quickly (e.g. a patient with an acute abdomen who is refusing surgical intervention); absence of information from collateral sources; collateral sources who provide conflicting information; conflicted families in which different family members have different views of the previous level of functioning or best interests of the older adult; conflicted health care teams; conflicts of interest on the part of individuals providing collateral information (e.g. the best interests of the individual providing the information conflict with the best interests of the older adult); fluctuating capacity (e.g. a patient with acute confusion/delirium may be capable of making certain types of decisions on one day but not the next). Finally, the existence of partial capacity is a frequent issue (e.g. the older adult is neither fully capable, nor fully incapable of managing finances).

To complicate the assessment even further, the potential consequences of impaired mental capacity inevitably influence the threshold for capacity: for example, the more likely impaired capacity will result in imminent harm to the older adult or someone else, the higher the threshold for capacity. At the same time, however, it must be acknowledged that even ostensibly capable people can make bad decisions.

### **Conclusion**

As described above, clinical assessment of the mental capacity of the older adult is an imperfect process. The assessment struggles to evaluate and integrate complex sets of information and make judgments that balance concerns about decision-making capacity and concerns about restrictions on individual autonomy.

---

<sup>4</sup> Astrid Vellinga et al, "Instruments to Assess Decision-Making Capacity: An Overview" (2004) 16:4 *International Psychogeriatrics* 397.

**Table 1. Capacity to refuse treatment****1. Factual Understanding**

“What illness do you have? What is the recommended treatment?”

**2. Insight and Appreciation**

“Do you have any doubts about the doctor’s diagnosis or how it applies to you?”

**3. Reasoning**

“Why have you chosen to refuse treatment?”

**4. Ability to choose**

“After discussing everything, what do you want to do?”

**Table 2. Capacity to determine living circumstances****1. Factual Understanding**

“Why does your doctor *not* want you to return home alone?”

**2. Insight and Appreciation**

“Do you have any illnesses/disabilities/limitations that would make it difficult for you to return home alone?”

**3. Reasoning**

“How will you manage your illness/disabilities/limitations at home alone?”

**4. Ability to choose**

“After discussing everything, what do you want to do?”