Society of Hospital Medicine Clinical Quick Talk: Capacity

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1) Overview of Capacity
   a) **Capacity** is the ability to make and communicate a medical decision
      i) Capacity is defined around a specific decision (e.g., leaving against medical advice, refusing a procedure) and individuals may have capacity to make one medical decision but not another
      ii) Capacity for a specific decision is also dependent on the current clinical situation and may change as the clinical situation changes. Thus, a capacity determination is not durable. A patient may lack capacity today but regain capacity tomorrow.
      iii) Unlike capacity, **competency** is a global determination of the ability to make all decisions (e.g., medical, financial) and competency is durable. Competency is determined in court, not by medical providers.
   b) Any medical provider can assess capacity for individual medical decisions
   c) Capacity evaluations must be conducted in the patient's native/primary language using a professional language interpreter if the medical provider is not fluent in that language
   d) Hospitalist teams should consider consulting Psychiatry when:
      i) They are unsure about the patient's capacity
      ii) If there are substantial risks of the patient's decision (e.g., injury, disability, death, stopping or forgoing life prolonging care)
      iii) If there is concern about the patient's capacity being compromised by being under duress or having potential treatable psychiatric illness

2) Clinical Evaluation of Capacity
   a) For a patient to have the capacity to make a medical decision, they must meet all four criteria below
      i) If the answer is "no" to any of the four criteria, the patient does not have capacity
      ii) If a patient volitionally does not answer the provider's questions, then the capacity evaluation is indeterminate and should be attempted again later
      iii) Include relevant patient quotes in your documentation to support your determination

   b) **Communicate a clear and consistent choice**
      i) Does the patient clearly say what they want?
      ii) Are they consistent on their communicated decision each time they are asked?

   c) **Understand medical information**
      i) Does the patient show they understand the medical condition related to the decision?
      ii) Can they tell you why they were admitted to the hospital?
      iii) Can they articulate for you what medical issue you are concerned about for them?

   d) **Appreciate risks and benefits**
      i) Can the patient tell you the risks of not doing what you are recommending?
      ii) Can they tell you the benefits of doing what you are recommending?

iii) Do they show they understand the "worst case scenario" of what could happen if they do not follow the medical team's recommendation?

e) **Rational reason for their decision**
   i) Do they demonstrate a logical reason for their decision (this does not need to be a reason medical teams agree with, just one that appears logical or rational)?

f) Conclusion
   i) If the answer is "yes" to **all four** criteria above, then yes - the patient has capacity to make the medical decision in question
   ii) If the answer is "no" to **any** of the above four criteria, the patient does not have capacity to make that decision
      (1) If they do not have capacity, the patient cannot refuse or consent to the specific intervention
         (a) A surrogate decision maker must be identified to ask them to make the decision in lieu of the patient
         (b) Guidelines for surrogacy vary for each state

3) Clinical Pearls
   a) Providers must distinguish capacity from competency
   b) For a patient to have capacity, they must communicate a clear and consistent choice, understand medical information, appreciate risks and benefits, and demonstrate a rational reason for their decision

4) References

   a) Appelbaum, P. S., & Grisso, T. (1988). Assessing patients' capacities to consent to treatment. *New England Journal of Medicine*, *319*(25), 1635-1638.
   b) Appelbaum, P. S. (2007). Assessment of patients' competence to consent to treatment. *New England Journal of Medicine*, *357*(18), 1834-1840.