CAPACITY IN THE ELDERLY

AN INTERACTIVE CASE-BASED TUTORIAL
Based on Modules by Mark Bosma
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DISCLOSURE
I do not have an affiliation (financial or otherwise) with a pharmaceutical, medical device or communications organization.
Objectives

• At the end of this presentation, the participant will be able to
• 1/ Demonstrate an understanding of the different types of capacity (competency) assessments in the elderly.
• 2/ Use a case based approach to review the basic components of the following capacity assessments:
  • -Personal Care
  • -Capacity to Consent to Medical Treatment
  • -Financial Capacity
• 3/ Acquire the basic knowledge which is necessary for primary care physicians to independently attempt capacity assessments in their own practices.
PART I: THE BEFUDDLED BANKER WITH THE BROKEN LEG
CASE

You are a family doctor doing hospitalist care on the orthopedic surgery floor. You meet Mr. Wobble, a 74 year old retired banker with Parkinson’s disease. He fell at home 24 hours ago and broke his left hip. He has been admitted and is on the waiting list for surgery. He is now refusing to be operated on.
WHAT IS THE ISSUE HERE?

COMPETENCY/CAPACITY
(IS HE COMPETENT, OR DOES HE HAVE THE CAPACITY, TO CONSENT TO TREATMENT?)
TERMS

WHAT IS CAPACITY?
“ability to understand the facts and significance of your behaviour”*

WHAT IS COMPETENCY?
“the quality of being adequately or well qualified physically and intellectually”*

• Refers to the minimal cognitive capacity required to perform a recognized act, including decision making

• Often a legal term, used by a judge

*Merriam-Webster
WHAT ARE DIFFERENT TYPES OF COMPETENCY/CAPACITY ASSESSMENTS?

Consent to Treatment
Personal Care
Financial
Sign Out AMA
Testamentary
Fitness to Stand Trial
Assign POA
etc.
WHAT STEPS WOULD YOU TAKE TO ASSESS CAPACITY TO CONSENT TO TREATMENT?

- Examine patient
- Collect collateral
- Order/review appropriate tests
EXAMINATION

You find Mr. Wobble lying in bed, and he is somewhat difficult to rouse. He pays little attention to you, and keeps closing his eyes. You explain the surgery to him, but he refuses to discuss it and says “leave me alone”. You are unable to complete an MMSE but note that he is not oriented to time or place.
Nursing staff report that Mr. Wobble was calm when admitted, but was agitated and restless throughout the night. He has been combative with care and says “don’t touch me”. He has received regular doses of morphine for pain. For the past several hours he has been “sleepy”.
You speak with Mrs. Wobble over the phone. Mr. Wobble is a well-educated, retired banker. He was diagnosed with Parkinson’s Disease three years ago, and is less steady on his feet. His thought processes are now “not as fast”, but there are no other obvious cognitive deficits. He has never refused recommended treatment before.
INVESTIGATIONS

Basic bloodwork is normal.
EKG is normal.
CXR is normal.
WHAT IS THE MOST LIKELY DIAGNOSIS?
DELIRIUM

WHY IS HE DELIRIOUS?
FRACTURED HIP
MORPHINE
MULTIFACTORIAL
COULD THIS INTERFERE WITH MR. WOBBLE’S ABILITY TO MAKE AN INFORMED TREATMENT DECISION? YES
WHAT ABILITIES ARE REQUIRED TO MAKE AN INFORMED DECISION?*

- Ability to express a choice
- Ability to understand information relevant to decision making
- Ability to appreciate significance of that information
- Ability to reason with relevant information

*Chisholm, T
WHAT CONDITIONS MAY IMPAIR THESE ABILITIES?

- Expressive/receptive aphasias
- Memory impairment
- Certain psychiatric conditions (delusional beliefs, etc)
- Frontal lobe damage

AND MANY OTHERS
Using a methodical and organized approach, you evaluate Mr. Wobble’s ability to make an informed decision.

**CAN HE EXPRESS A CHOICE?**

*NOT CLEARLY*

**IS IT CONSISTENT WITH PAST DECISIONS?**

*NO*
HOW WOULD YOU ASSESS HIS ABILITY TO UNDERSTAND THE INFORMATION?

Ask Mr. Wobble to repeat the relevant information:

Can he describe his condition?
Can he describe the suggested treatment?
Can he list alternative options?

IS HE ABLE TO DO THIS?

NO
HOW WOULD YOU ASSESS HIS ABILITY TO APPRECIATE THE INFORMATION?

Ask Mr. Wobble to describe the importance/significance of the information:
What are risks/benefits of each treatment option?
What are consequences of refusing treatment?

IS HE ABLE TO DO THIS?

NO
HOW WOULD YOU ASSESS HIS ABILITY TO REASON?

Can he *weigh* his options?
Can he evaluate the consequences?
What are his reasons for choosing one option over another?

IS THERE A CONDITION IMPAIRING HIS ABILITY TO REASON?

YES (DELIRIUM)
After assessing Mr. Wobble’s capacity to consent to treatment, what is your impression?

NOT CAPABLE OF CONSENTING TO TREATMENT!
Mr. Wobble’s wife provides consent, and the surgery is successful. Several days later, Mr. Wobble’s delirium improves, and he is pleased he had the surgery.

WILL HE BE ABLE TO MAKE MEDICAL DECISIONS AGAIN?

YES
CAPACITY/COMPETENCY IS TIME SPECIFIC

• The cognitive fluctuation in delirium is a good example of this
PART II: THE BEFUDDLED BANKER AND THE BAD INVESTMENTS
Four years later, you are working in a rural family practice clinic. Mr. Wobble is one of your patients. He now has dementia, likely related to Parkinson’s disease. He has many investments, and has been trading stocks on-line. His wife does not believe he is fit to do this, and wants her POA activated.
WHAT IS THE ISSUE HERE?
FINANCIAL CAPACITY

BECAUSE MR. WOBBLE HAS DEMENTIA, IS HE INCAPABLE?
NOT NECESSARILY

• Cognitive impairment does not imply incapacity
As you know from prior capacity assessments, it is important to examine the patient and collect collateral information from appropriate sources. You schedule an appointment in your office with Mr. Wobble and his wife.
WHAT ARE CRITERIA FOR FINANCIAL CAPACITY?*

- Does the patient understand the importance of and reason for the assessment?
- Does the patient have a realistic appreciation of his/her strengths and weaknesses in this area?
- Does the patient know the nature and extent of assets, liabilities, income, and expenses?
  - Has the patient been able to make recent reasonable financial decisions, and could they be expected to do so in the future?
- Has the patient been willing to use appropriate resources for assistance?

*CPA Guidelines
WHAT ARE OTHER POINTS TO CONSIDER?*

• Does the patient understand the concept of Power of Attorney?
• Have family and community resources been able to provide support to help the patient manage affairs?
• Are there delusions/hallucinations which would interfere with the capacity to manage affairs?
• Are there cognitive deficits which would interfere with the capacity to manage affairs?
• Is the patient likely to “get better”, such that they would become capable again?

*CPA Guidelines
Mr. Wobble understands the reason for the visit is to assess financial capacity, and is aware his wife has a POA for him. He states he managed a bank for many years, and has always managed his own finances. He admits to accidentally trading “a few stocks”, but blames it on the computer. He wishes to continue managing his financial portfolio without assistance.
IS THE VALUE OF THE STOCK TRADED IMPORTANT?

YES

• It may reflect the size of the estate
• It bears directly on “nature and severity of consequences to person and family”
• Is it consistent with past behaviours?
HOW WOULD YOU ASSESS MR. WOBBLE’S KNOWLEDGE OF HIS ESTATE AND EXPENSES?

- Sources of income
  - Pensions
  - Investments
- Amount of income
  - Monthly
  - Annually
- Other assets
  - Source
  - Value
- Debts
- Costs of living
  - Rent/mortgage
  - Bills (groceries, utilities, etc)
EXAMINATION

Mr. Wobble can name the amount and sources of his income. He can list types of expenses, but cannot estimate his monthly cost of living. He says his wife takes care of “the little bills”. He says they have $500 000 in various investments. He likes to “play with” $50 000, and says “I need to maintain my trading skills”. There is no evidence of delusions/hallucinations.
COGNITIVE ASSESSMENT

The following tests are performed:

- MMSE 23/30
  - 2/3 recall
  - 1/5 concentration
- Clock drawing slow, incorrect placement of hands
- 5 “F” words in 60 s
- 6 animals in 60 s
- Concrete similarities
- Cannot complete Trails B
WHAT DO THE TEST RESULTS SUGGEST?
POOR ATTENTION/CONCENTRATION
EXECUTIVE DYSFUNCTION
(consistent with frontal subcortical dysfunction common in Parkinson’s disease)
ARE THERE ANY PRACTICAL TASKS TO ASSESS FINANCIAL CAPACITY?

- Test basic addition/subtraction
- Ask patient to draw a facsimile of a check
RESULTS

• Able to do basic addition and subtraction
• Difficulty with multiplication
• Able to draw a rectangle with the date, but leaves out other parts of check
You meet with Mrs. Wobble. She confirms they have $500,000 in investments. Mr. Wobble recently lost $10,000 by “accidentally” selling stocks on-line. He has never made errors before, but these were stocks he would normally never sell. She is concerned he will lose more of their retirement money, and wants a financial advisor to manage their assets. Mr. Wobble refuses to relinquish control. She also reports he is having difficulty performing other IADL’s, and is physically and mentally slower than before.
To evaluate the case, you decide the best approach is to work through the criteria for financial competence.

DOES HE UNDERSTAND THE REASON FOR THE EXAMINATION?

YES

• He also knows there is a POA
CAPABLE OR NOT?

DOES HE HAVE AN APPRECIATION OF HIS STRENGTHS AND WEAKNESSES?
• He does not acknowledge his need for assistance

IS HE AWARE OF HIS ASSETS, LIABILITIES, INCOME, AND EXPENSES?
PARTIALLY
• He cannot describe the small details
CAPABLE OR NOT?

HAS HE BEEN ABLE TO MAKE REASONABLE FINANCIAL DECISIONS RECENTLY?

NO

- He has displayed poor judgment
- It is out of keeping with past experience
- His actions may have serious ramifications for his family’s financial future
- He has significant cognitive impairment
- It is unlikely to improve in the future
CAPABLE OR NOT?

HAS HE BEEN WILLING TO USE AVAILABLE RESOURCES NOW OR IN THE FUTURE?

NO

BASED ON THIS INFORMATION, IS MR. WOBBLE FINANCIALLY CAPABLE?

NO!
Mr. Wobble is upset when told of the outcome of the assessment, as managing finances has always been something he enjoyed. IS THERE A WAY TO COMPROMISE WITH HIM?

REMEMBER:

• The outcome should focus on the needs of the patient
• The patient should be given as much freedom as possible
Mr. Wobble’s wife agrees it would be reasonable to allow him to have access to $1000 to invest as he pleases, and leave the rest to a financial advisor. Mr. Wobble agrees to this, and you wish them the best for now.
PART III: THE BEFUDDLED BANKER AND THE “BABYSITTER”
One year later you see Mr. Wobble. Your office staff received a call from Mrs. Wobble, who states Mr. Wobble is being “difficult”. She plans to go on vacation for two weeks, but worries about leaving Mr. Wobble alone. He has refused in-home supports, saying “I don’t need a babysitter”. He also recently used his power tools to try and build a bench. She worries he will harm himself.
WHAT IS THE ISSUE HERE?
PERSONAL CARE CAPACITY

WHAT IS “PERSONAL CARE”? 
In caring for one’s self, the ability to \textit{safely}:
\begin{itemize}
  \item Provide food
  \item Provide shelter
  \item Provide clothing
  \item Carry out IADL’s
  \item Carry out ADL’s
\end{itemize}
\hspace{1cm}\{ \text{In a secure environment} \}
WHAT ARE CRITERIA FOR PERSONAL CARE CAPACITY?*

- Does the patient understand the importance of and reason for the assessment?
- Does the patient have a realistic appreciation of his/her strengths and weaknesses in this area?
- Has the patient been able to live safely in his/her environment with available or additional resources?
- Does the patient continue to make reasonable decisions with respect to self care?
- Has the patient been willing to use appropriate resources for assistance?

*CPA Guidelines
WHAT ARE OTHER POINTS TO CONSIDER?

• Can the patient carry out IADL’s/ADL’s independently?
• Has the patient shown poor judgment which may have endangered the self or others?
• Have family and community resources been able to provide support to help the patient live safely?
• Are there delusions/hallucinations which would interfere with the ability to care for the self?
• Are there cognitive deficits which would interfere with the ability to care for the self?
• Is the patient likely to “get better”, such that they would become capable again?

*CPA Guidelines
You make an appointment to see the Wobbles. Although you have seen the Wobbles before, WHAT AREAS SPECIFICALLY REQUIRE REASSESSMENT?

REPEAT COGNITIVE TESTING
FUNCTIONAL ASSESSMENT

WHAT TOOL MIGHT YOU USE TO ASSESS IADL’S/ADL’S?

LAWTON-BRODY SCALE
You see Mrs. Wobble first. She is home all the time to “watch over” Mr. Wobble. She is planning to go away for two weeks and doesn’t want to leave him alone. He refuses to accept home care while she is gone. He recently fell and couldn’t get up without help. He also used some power tools (including an electric saw) to build a bench, in spite of her warnings. He couldn’t complete the project.
You ask her to complete a Lawton-Brody scale. Like one year ago, he does not cook, clean, or get groceries. He walks slow, and often does not get to the phone on time. He can still do most ADL’s, but only one hour after taking Parkinson medications in the morning. Before that he is very slow and stiff, and unable to dress himself.
Mr. Wobble admits he rarely cooks or cleans, but thinks he could “make soup and toast” for two weeks. He does not want a stranger to come and “babysit” him. He does not believe there are risks to using power tools. He thinks his wife “overreacts”, and is adamant he can still care for himself in her absence.
You repeat cognitive testing. Mr. Wobble now scores 20/30 on the MMSE. The frontal tests have similar results, with a pattern suggesting executive dysfunction (frontal subcortical deficits).
HOW ELSE COULD YOU ASSESS FUNCTIONAL ABILITIES?
REQUEST A FUNCTIONAL ASSESSMENT BY THE OCCUPATIONAL THERAPIST (preferably at home)
The results confirm Mrs. Wobble’s collateral, as Mr. Wobble has difficulty performing IADL’s. It suggests he should not live independently.
CAPABLE OR NOT?

To evaluate the case, you decide the best approach is to work through the criteria for personal care competency.

DOES HE UNDERSTAND THE REASON FOR THE EXAMINATION?

YES
CAPABLE OR NOT?

DOES HE HAVE AN APPRECIATION OF HIS STRENGTHS AND WEAKNESSES?

NO

- He believes he can function independently
- OT report shows difficulty with IADL’s
- He continues to have significant cognitive impairment
CAPABLE OR NOT?

HAS HE BEEN ABLE TO LIVE SAFELY WITHIN HIS ENVIRONMENT?

MOST OF THE TIME

• With the assistance of his wife
• He has occasional falls
CAPABLE OR NOT?

HAS HE MADE REASONABLE DECISIONS WITH RESPECT TO SELF CARE?

NO

- Using power tools in spite of cognitive impairments and Parkinson’s disease
CAPABLE OR NOT?

IS HE WILLING TO USE APPROPRIATE RESOURCES FOR ASSISTANCE?

NO

• He won’t accept “a babysitter” (home care) while his wife is away
• He does not follow advice re power tools
CAPABLE OR NOT?

BASED ON THIS INFORMATION, IS MR. WOBBLE COMPETENT TO MANAGE HIS PERSONAL CARE?

NO!
CAPABLE OR NOT?

WOULD HE BE COMPETENT AGAIN AFTER HIS WIFE RETURNS FROM HER TWO WEEK VACATION?

NO
HOW COULD YOU APPROACH THIS TO LEAVE MR. WOBBLE WITH AS MUCH FREEDOM AS POSSIBLE? ALLOW HIM TO CHOOSE THE LEAST RESTRICTIVE OPTION

• Would he prefer nursing home placement or homecare while his wife is away
Mr. Wobble is told he will be declared incapable of providing personal care, and can choose between homecare or nursing home placement while his wife is away. He then agrees to have in-home supports while his wife is on vacation (and some respite care when she returns). He also agrees not to use power tools, which his wife then disposes of. Hopefully this outcome is reasonably satisfactory for all involved.
REFERENCES