



# Wyomissing Behavior Analysts, Ltd.

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## CAPACITY ASSESSMENT

Autonomy vs. Paternalism.

Capacity is a continuum. It is not all or none.

There are more than two parts (financial and person) to capacity.

We all have limited capacity. An incapacity is compensated by an awareness of that incapacity.

The ability to make a decision about an activity is not the same as the ability to engage in the activity.

Capacity is not the same as being “strong willed.” Incapacity does not mean the person cannot have preferences and express choice.

Decisions can be distinguished from Preferences and Choices.

**Preference:** Preference is a basic like or dislike, a subjective feeling. For example, I like chocolate better than vanilla. I like red better than green.

**Choice:** Choice is a selection of alternatives (either/or) based upon a subjective feeling and relating to an immediate need. Often, the alternatives are defined by others.

**Decision:** A decision begins with a subjective feeling, moves beyond the immediate need and requires abstract reasoning which we define as the ability to identify the relevant factors to be considered, the ability to weigh pros and cons, risks and benefits and the ability to anticipate possible outcomes.

Capacity is situational → The more significant the risks/benefits of the decision to be made, the stiffer will be the criteria for having capacity.

Managing \$50 a month vs. \$1,000,000.

Supportive/Caring Support System vs. Vultures and Thieves Circling the Estate

Capacity is one of 3 requirements for giving INFORMED CONSENT:

1. Information
2. Capacity
3. Not Coerced

A Dementia diagnosis is not equivalent to an opinion of incapacity.

A person is incapable of making decisions before being adjudicated incompetent by a Judge.

When evaluating, the focus is on demonstrating capacities. When testifying, the focus is on identifying incapacities.

Approaches to Evaluating Competency: Outcome, Status, Functioning

Capacity does not mean agreeing with you!!! (Outcome Approach)

Alert and responsive is not sufficient to have Capacity. (Status Approach)

Functioning Approach: ability to 1) appreciate the consequences of decision; 2) engage in effective deliberation; 3) understand and retain related facts and 4) consider relevance to the immediate situation. See Decision Making Capacity Checklist.

ASSESSMENT:

1. Interview
2. History
3. Formal Testing of Cognitive Ability

Mini Mental State Exam → screening tool, does not get at higher level cognitive abilities

Clock Drawing → no face validity, what's that got to do with making a decision?

Memory Tasks → critical (tests anterograde memory rather than prospective memory)

Problem Solving → critical but difficult to test (Wisconsin Card Sorting Test)

Trail Making → attention shifting, following instructions, driving ability

Geriatric Depression Scale → mood state can affect cognitive and decision-making ability