

Medical consent is required prior to patients undergoing invasive procedures or treatments that carry significant risk of adverse outcomes. Medical consent requires that decisions are informed, voluntary, and made by individuals who have capacity.

Most clinical and legal models of medical consent capacity focus on four abilities.<sup>1</sup>

# Capacity to Consent to Medical Treatment

## EDUCATIONAL HANDOUT SERIES

VA



U.S. Department of Veterans Affairs  
Veterans Health Administration  
Employee Education System

### DEFINITIONS<sup>1</sup>

<b>Ability</b>	The person should be able to:
<b>Understanding</b>	Comprehend information about the disorder and treatment(s).
<b>Appreciation</b>	Determine the significance of the treatment and the option of no treatment, focusing on the nature of the diagnosis and the possibility that treatment would be beneficial or harmful.
<b>Reasoning or Formulating</b>	Compare treatment alternatives in light of consequences, drawing inferences about impact of alternatives on everyday functioning and quality of life.
<b>Communicating a Choice</b>	Communicate a decision, applying to those who are unable to express a reasonably consistent choice.

### What VA policies may apply?

VA clinicians must follow VA laws, regulations and policies, in addition to clinical practices, when treating Veterans and sharing Veteran health information. The VA Informed Consent Policy identifies four major components to decision-making capacity: understanding, appreciating, formulating, and communicating.

[https://www.va.gov/vhapublications/ViewPublication.asp?pub\\_ID=2055](https://www.va.gov/vhapublications/ViewPublication.asp?pub_ID=2055)

### How might dementia affect the capacity to consent to treatment?

Most older adults do not have dementia, and the presence of dementia does not necessarily mean that an older adult lacks capacity for domains such as consent to treatment, choosing a healthcare agent, or other types of decisions. The [Dementia Steering Committee](#) recommends that clinicians consider assessing decision-making capacity for adults with dementia during care transitions and/or when obtaining consent for treatment or procedures. Similar to other types of capacity assessments, assessment of capacity to consent to treatment focuses on the individual's abilities and not his or her diagnosis. Broadly speaking, individuals with moderate to severe dementia may have difficulty making complex or high risk decisions with high memory or reasoning demands (e.g., multiple alternatives or outcomes to weigh).

### What supports can help?

Considering the Veteran's values and cultural background, ask how much information they wish to know. When disclosing information about the diagnosis, treatments, and option of no treatments, use clear language understandable to the individual. Provide supports as necessary to accommodate for any sensory deficits (e.g., drawings, pocket talkers, magnifying glass). Also consider the Veteran's language, preferred mode of communication (written, verbal, and/or visual), and the individual's health literacy level.



## What values might be important to patients who are weighing options for medical treatment?

For patient-centered care it is important to understand the values that influence their reasoning. Potential values domains include<sup>2</sup>:

Value	How evaluated
<b>Self-sufficiency</b>	Having or desiring the capacity to take care of oneself and not depend on others; functioning in one's daily life; "I don't want to be a burden"
<b>Life Enjoyment</b>	Maintaining or desiring a meaningful sense of physical, emotional, and spiritual health; activities associated with enjoyment of one's life
<b>Connectedness and Legacy</b>	Feelings regarding the importance (or lack thereof) of social or spiritual relationships in one's life; conveying how one wants to be understood or remembered by the important people in one's life
<b>Balancing Quality and Length of Life</b>	Weighing one's desire for quality of life with prolonging length of life when evaluating treatment preferences and goals
<b>Engagement in Care</b>	How much the person wishes to engage in care (information wanted, intensity/frequency) and how much the person wants others (clinicians and his/her family and friends) to be involved in care



## How do I ask about capacity to consent to medical treatment?<sup>3</sup>

Helpful questions to assess each of the four abilities required for medical consent may include:

<b>Understanding</b>	Tell me in your own words what your understanding is of your condition. What are the risks and benefits of each treatment? How likely are the benefits and risks to occur?
<b>Appreciation</b>	What do you believe is wrong with your health? Do you believe that you need some kind of treatment? What is the treatment likely to do for you? What treatments does your provider recommend? What do you believe will happen if you are not treated?
<b>Reasoning or Formulating</b>	Tell me your thoughts about whether to accept or reject the treatment? Which factors were important to you in weighing different treatment options? Why did some alternatives seem better or worse than others?
<b>Communicating a Choice</b>	Have you decided whether to go along with your provider's recommendation? Can you tell me what your decision is?



## Tools and Tips

There have been many tools developed to support the clinician’s determination of capacity to consent to medical treatment.

These include:

<b>Aid to Capacity Evaluation</b>	7 item semi-structured interview matching standards in Canada	Download at: <a href="http://jcb.utoronto.ca/tools/documents/ace.pdf">http://jcb.utoronto.ca/tools/documents/ace.pdf</a>
<b>Assessment of the Capacity to Consent to Treatment</b>	Part 1 assesses values; Part 2 assesses 4 consent standards in light of values	Download at: <a href="https://heartbrain.hms.harvard.edu/acct">https://heartbrain.hms.harvard.edu/acct</a>



## Acknowledgement and Disclaimer

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**Additional Resources at:** Additional Resources are available at the VA TMS system. Please search the course catalog by keyword 'capacity'.

### References:

1. Appelbaum PS, Grisso T. Assessing patients’ capacities to consent to treatment. *New England Journal of Medicine*. 1988;319:1635-1638.
2. Naik AD, Martin LA, Moyer J, Karel MJ. Health Values and Treatment Goals of Older, Multimorbid Adults Facing Life-Threatening Illness. *J Am Geriatr Soc*. Mar 2016;64(3):625-631.
3. The American Bar Association and the American Psychological Association. Assessment of older adults with diminished capacity: A handbook for psychologists. Washington DC: ABA and APA; 2008.