

Mental Capacity Assessment for Surgical Procedures in Primary Care and Dentistry



Text by Dr Goh Kar Cheng and Dr David Lim

The SMA Centre for Medical Ethics and Professionalism's (CMEP) webinar titled "Mental Capacity Act – Clinical Care of Persons with Diminished Capacity" was held on 6 May 2023. This was a collaboration between SMA and the College of Psychiatrists, Academy of Medicine, Singapore (AMS). Among the topics discussed, Dr Goh Kar Cheng, consultant family physician, and Dr David Lim, special care dentist, spoke on the relationship between mental capacity assessment and surgical procedures by GPs, and dentistry, respectively. We share below some key points from the presentations.

Assessment for surgical procedures

Drawing from her clinical experience, Dr Goh presented a clinical approach that GPs could adopt when assessing the mental capacity of their patients.

She explained that the role of the GP is to assess the patient's ability to give informed consent for the surgical procedure and not to explain the risks of anaesthesia or surgery, nor to take consent for said surgical procedure. When gathering relevant clinical information for the assessment, it is important to consider the following:

- Factors related to the patient, such as (a) language proficiency; (b) sensory impairments, such as hearing or visual impairments; (c) alertness/attention; and (d) current level of functioning.
- Factors related to the conditions that call into question the patient's decision-making capacity (eg, the stage of dementia or when the patient has a mental disorder

like schizophrenia, whether it is in remission or if there are active symptoms).

- Factors related to the surgical condition for which surgery is recommended, including the urgency of the procedure and the risks versus benefits of surgery.
- The dynamics of the relationship between the patient and accompanying family members.

Bearing these points in mind, the important role of the GP is to take all practicable steps to help the patient understand the information provided, encourage patient participation, understand the patient's values and beliefs and, in so doing, help the patient to make his/her own decision.

Dr Goh then illustrated such a clinical approach using two case studies. The questions asked during the assessment aimed to ascertain the patient's ability to:

- Understand his/her surgical condition;
- Retain the information sufficiently long enough for the assessment;
- Use and weigh the information given against his/her values and beliefs (relevance); and
- Convey his/her decision with an accompanying explanation for the decision made.

The first case study was of a patient with dementia needing exploratory pelvic surgery for a left ovarian tumour. The patient was able to understand her diagnosis of an ovarian tumour and that the exploratory surgery was to ascertain whether it was benign or malignant. She was also able to retain the information long enough, weigh the information

against her values, and express her wish to have the surgery, such that if the tumour was malignant, treatment could be instituted without undue delay. She was thus assessed to have the mental capacity to give consent for the exploratory surgery.

The second case study was a female patient with long-standing schizophrenia requiring radical mastectomy with axillary clearance for left breast cancer. While her schizophrenia was in remission and she was functioning at her usual baseline, she was not able to understand the nature of her cancer diagnosis despite repeated explanation in simple terms. Even though she was able to indicate her decision that she did not want surgery and stated fear of pain as the reason for her decision, her inability to understand the given information and to use the information led to the conclusion that she likely did not have the mental capacity to give consent for the surgery.

Dr Goh concluded with these key learning points:

- The ability to indicate yes or no is generally given the lowest weightage of the four pillars of the mental capacity assessment.
- The patient must be able to understand and retain the information given.
- The patient must be able to appreciate the consequences of his/her decision, including the option of not having the surgical procedure.
- The clinician should document clearly the assessment and state whether the patient was likely to have or lack mental capacity to give consent for the said surgical procedure.

Assessment for dentistry procedures

Dr Lim shared that there have been many occasions where the dental and medical fields overlapped. Being aware of these considerations and the Mental Capacity Act's (MCA) framework helps the medical practitioner to optimise the patients' autonomy and safeguard the clinical decision process.

In clinical practice, treatment decisions made by patients are affected by many factors. Within dentistry, these factors may include the high costs of the procedures, poor oral health literacy and previous negative experiences with dental treatment. This may result in situations where patients with mental capacity decline recommended dental treatment even if the dentist thinks it is in the patient's interest to have the treatment.

Dr Lim shared a case study where a patient declined dental extractions which were necessary prior to him receiving head and neck radiotherapy. He subsequently also refused receiving radiotherapy to avoid having to undergo the dental extractions. While it is important to respect the patient's right to make unwise decisions, it is also important to not adopt that position until all practicable steps have been taken to communicate with the patient. This includes understanding the reasons for their decision, as well as communicating clearly and effectively so that the relevant information has been understood by the patient.

Costs, misconceptions and treatment anxiety can influence the patient's decision-making process, and there can be serious health consequences when treatment is refused. The dental surgeon has a role to reconcile these concerns using available resources, particularly in the area of treatment costs. This may include tapping on the expertise of a medical social worker to apply for financial subsidies and engaging with the person paying for the dental treatment in shared decision-making (if the patient is not the payer).

Another challenge faced by dental surgeons is treating patients with borderline cognitive ability which

complicates the mental capacity assessment process. This category of patients may include persons with mild intellectual disability or mild dementia. A common practice is to seek a second opinion from another colleague with equal or more experience. Although there is no legal obligation to do this, it is a good practice with difficult cases. Sometimes, such a patient may be able to make decisions for simple procedures (eg, dental cleaning), but not for more complex procedures with greater risks (eg, wisdom tooth surgery under general anaesthesia). The dental surgeon has to assess the patient's mental capacity for the specific decision at the specific time point.

Dr Lim presented a second case study where a shared decision was made to stabilise a young adult with intellectual disability for the urgent extraction of her painful molar using clinical holding. There was significant care-resistant behaviour, and the procedure had to be aborted midway. Undesired or unexpected outcomes may occur sometimes, but this does not mean an incorrect decision was made. It is therefore important that the mental capacity assessment and consent process is robust and done in accordance with the MCA.

All dental procedures require the patient's consent. This can be as simple as implied consent or as complex as a multidisciplinary shared decision-making. With the variety of procedures and their associated risks, benefits and costs, communication for informed consent may not always be straightforward. To aid in this process, doctors and dentists can make use of free online graphical communication tools designed specifically for health-related procedures, such as Makaton signs (<https://makaton.org/>) and Sante BD tools (<https://santebd.org/>). These are curated for persons with intellectual disabilities or those with autism spectrum disorder.

Dr Lim summarised the key learning points as:

- Reconciling cost considerations;
- Clarifying misconceptions of treatment;

- Allaying patient's anxieties;
- Utilising multi-clinician or cross-disciplinary decision-making processes;
- Being decision- and time-specific; and
- Using communication tools.

These important topics related to mental capacity assessments of persons with diminished capacity will hopefully be helpful to both participants and readers. To find out more about seminars and online training modules on mental capacity, visit the SMA CMEP website at <https://www.smacmep.org.sg>.

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