

# Advance Care Planning and Decisional Capacity

1. Advance Directives must be completed only after decisional capacity has been determined
2. Medical Durable Power of Attorney documents generally take effect when a patient does not have decisional capacity
3. A nurse or other healthcare provider may determine decisional capacity
4. Decisional capacity is different from Competency which is a legal term. We often use the terms "competence" and "capacity" (short for "decision-making capacity") interchangeably. However, they are not exactly the same. Competence is a legal term. Competence is presumed unless a court has determined that an individual is incompetent. A judicial declaration of incompetence may be global, or it may be limited (e.g., to financial matters, personal care, or medical decisions).
5. Decision-making capacity, on the other hand, is a clinical term that is task-specific. A physician or nurse may determine that a patient does not have the capacity to make a decision for or against surgery for a hip fracture, but she may have the capacity to decide if she wants a sleeping pill or a laxative.

# Decision-Making Capacity

**Understanding** - The ability to state the meaning of the relevant information (eg, diagnosis, risks and benefits of a treatment or procedure, indications, and options of care).

After disclosing a piece of information, pause and ask the patient: "Can you tell me in your own words what I just said about [fill in the topic disclosed]?"

**Expressing a choice** - The ability to state a decision.

"Based on what we've just discussed about [insert the topic], what would you chose?"

To assess appreciation of diagnosis: "Can you tell me in your own words what you see as your medical problem?"

**Appreciation** - The ability to explain how information applies to oneself.

To assess appreciation of benefit: "Regardless of what your choice is, do you think that it is possible the medication can benefit you?"

To assess appreciation of risk: "Regardless of what your choice is, do you think it is possible the medication can harm you?"

**Reasoning** - The ability to compare information and infer consequences of choices.

To assess comparative reasoning: "How is X better than Y?"

To assess consequential reasoning: "How could X affect your daily activities?"