

# *20 / 20 on Capacity*



Understanding  
Decision-making  
Capacity



# Faculty/Presenter Disclosure

- ▶ **Faculty:** Jasneet Parmar, Dept. of FM, U of AB.
- ▶ **Relationships with commercial interests:** None
- ▶ **Grants/Research Support:** NAAFP  
Creation of a Customized Tool to Facilitate Confidence and Ease in Decision-Making Assessments Among Family Physicians (\$4917)

# Disclosure of Commercial Support

- ▶ **This program has received financial support from Travel and Accommodation:**
- ▶ **This program has received in-kind support from:**
  - ▶ Geriatric Updates Conference, University of Calgary, 2013, 2014, 2015, 2016, 2017
  - ▶ ACFP ASA, Banff, 2014, 2015
  - ▶ Office of Public Guardian, Edmonton/Calgary, 2014, RedDeer 2016, Lethbridge 2017
  - ▶ FMF, Quebec City, 2014, Toronto 2015, Vancouver 2016, Montreal 2017
- ▶ **Potential for conflict(s) of interest: None**

# Mitigating Potential Bias

▶ N/A

# Learning Objectives:

- ▶ A Capacity Assessment process
- ▶ An interdisciplinary approach
- ▶ Capacity assessment worksheets
- ▶ Your role in assessment of capacity

Imagine all the decisions you make in one day:

- ▶ Where are you going to live?
- ▶ Who are you going to associate with?
- ▶ What are you going to wear?
- ▶ What are you going to do if you're sick?

**IMAGINE YOUR RIGHT TO MAKE ALL THESE DECISIONS  
WAS TAKEN AWAY**

# Case Study

- ▶ Mrs. T is a 79 yr old woman
- ▶ Retired high school teacher
- ▶ Very educated and well read
- ▶ PMHx: diabetes, MI, CVA October 2010
- ▶ Referred to Occupational Therapy for further cognitive assessment because she was not managing well at home: medication non compliance, safety issues when cooking, difficulty managing finances
- ▶ Support system includes a caregiver who visits every day
- ▶ Does she have capacity to decide where and how she should live?

# Capacity Definition

The ability to understand the information that is relevant to making of a personal decision and the ability to appreciate the reasonable foreseeable consequences of the decision



# What is Capacity?

- ▶ Capacity is **not** a medical diagnosis
- ▶ Health care providers can provide a **clinical opinion** on capacity
- ▶ Competency is legal decision made by the Court, based on evidence

# Risk by Choice

- ▶ A risky decision is not necessarily an incompetent decision
  - ▶ Stockbrokers, soldiers, medical professionals and patients make them every day
- ▶ It is the process - or the lack of process - by which risky decisions are made that calls into question the capacity of a patient to make that decision

# Common Pitfalls

- ▶ All or Nothing - the practitioner doesn't understand that capacity is not “all or nothing”, but specific to a decision
- ▶ Practitioner fails to ensure that patient has been given relevant information about proposed treatment before making a decision
- ▶ As long as patient agrees with practitioner's health care recommendations, practitioner fails to consider that patient may lack capacity for decisions

# Costs of Poorly Conducted Assessments

- ▶ Unnecessary, uncoordinated and multiple assessments by different disciplines is an assault on patient's human dignity
- ▶ Generates other costs and burdens by delaying services, taxing health care staff resources, and heightening mistrust between disciplines
- ▶ Erodes ethical and moral integrity of the organization and trust
- ▶ Generates further conflict, including possible complaints, ethics consults, litigation, etc.

# Relevant Legislative Acts -

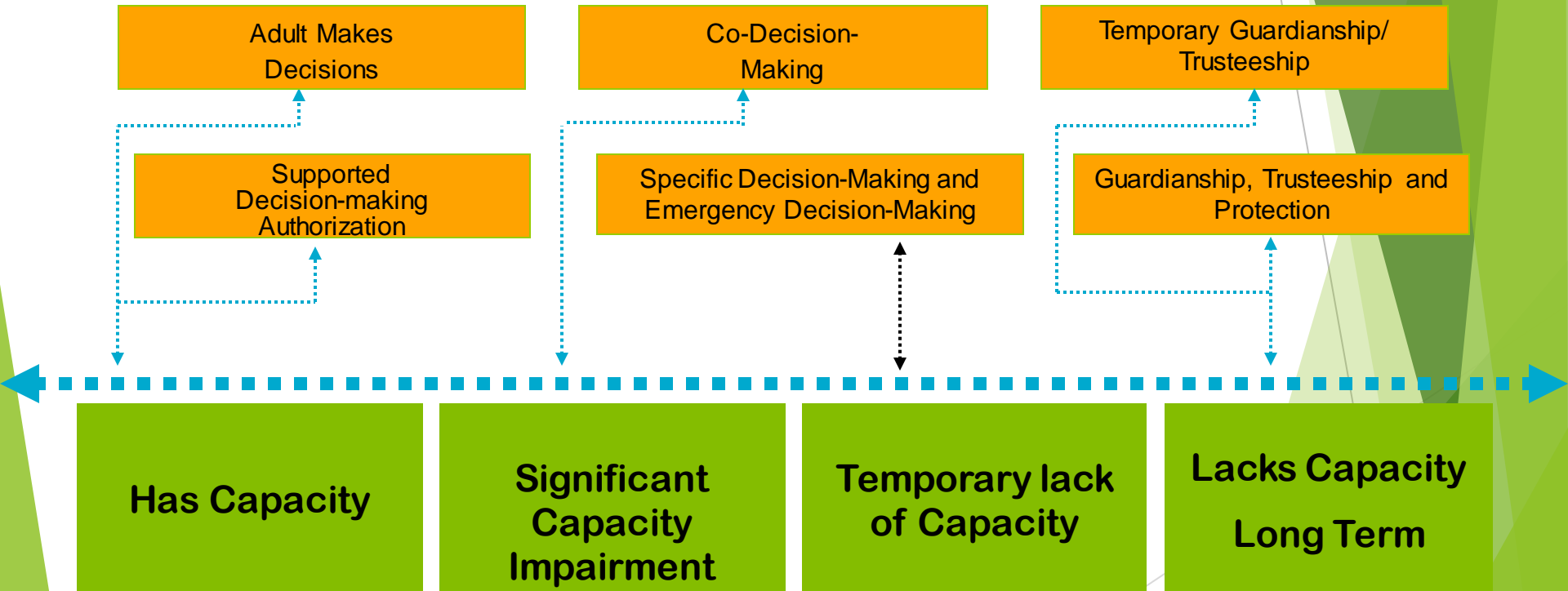
- ▶ Personal Directives Act
  - ▶ Allows adult Albertans to create a Personal Directive to name people (agent) to make decisions and describes areas in which they want decisions made for them
- ▶ Powers of Attorney Act
  - ▶ Allows adult Albertans to create an Enduring Power of Attorney to name people (attorney) to make decisions in financial matters for them
- ▶ Adult Guardianship and Trusteeship Act
  - ▶ Continuum of Decision-making
  - ▶ Legal process for granting powers of surrogate decision making

# Personal Directive Act

- ▶ Schedules
- ▶ A process for determining incapacity
- ▶ Expanded scope of Service Providers in healthcare such as Registered Nurses, Psychiatric Nurses, SW, OT to act as the second signature
- ▶ Allow for re-assessment of capacity or determination of regained capacity
- ▶ Complaints process via OPG (similarly under AGTA)

# AGTA Decision-making Options

- Tailored to different levels of capacity
- Designed to provide as much autonomy as possible



Range of Capacity

**Decisions made by you...**

**Decisions made by the Court...**

... while you are alive

**Personal decisions**

**Personal Directive:**

Agent

**Co-decision-making:**

Co-decision Maker

**Supported Decision Authorization:**

Supporter

**Guardianship:**

Guardian

**Financial decisions**

**Enduring Power of Attorney:**

Attorney

**Trusteeship:**

Trustee

... after death

**Financial assets**

**Will:**

Executor

**Intestate Succession Act:**

Administrator

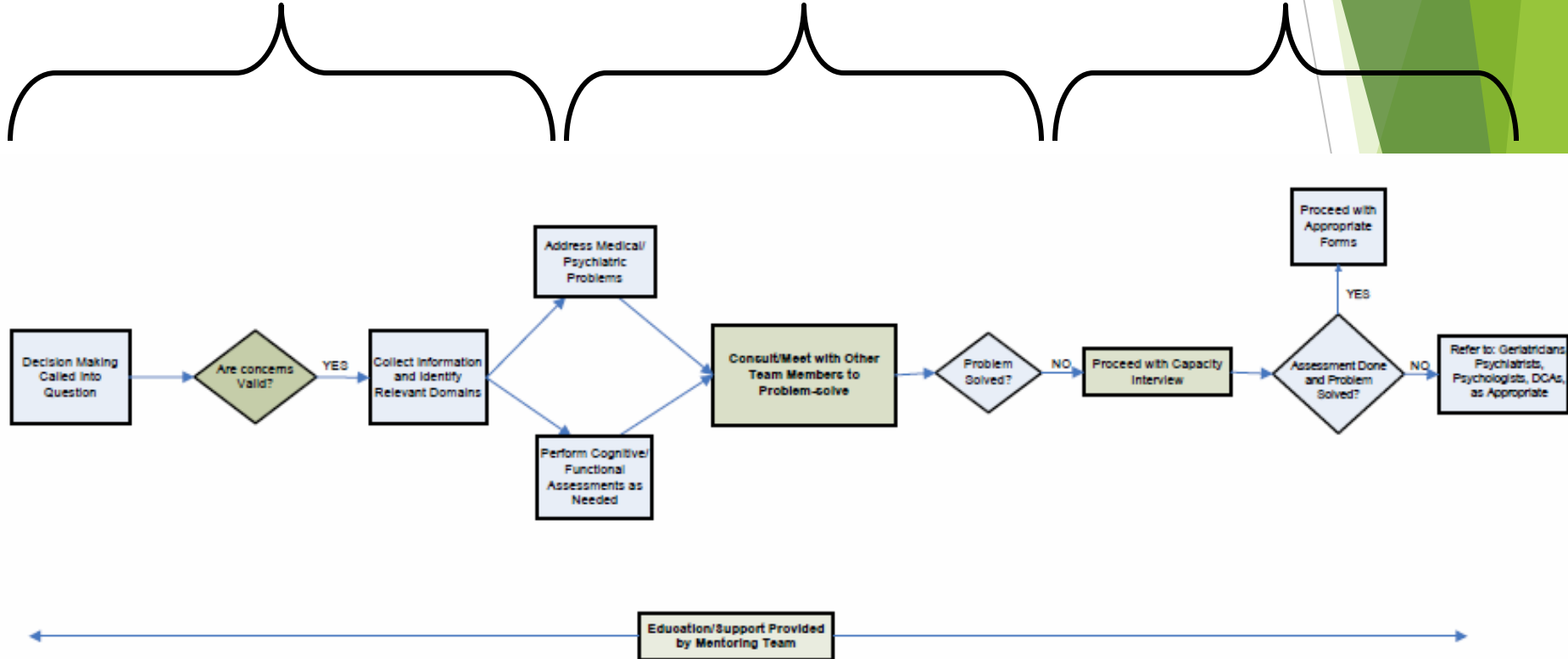


# Capacity Assessment Care Map

Initial Assessment:  
Identifying Reasons  
for Assessment,  
Domains and Risks

Assessment in Depth:  
Problem-Solving Using  
Cognitive and Functional  
Testing

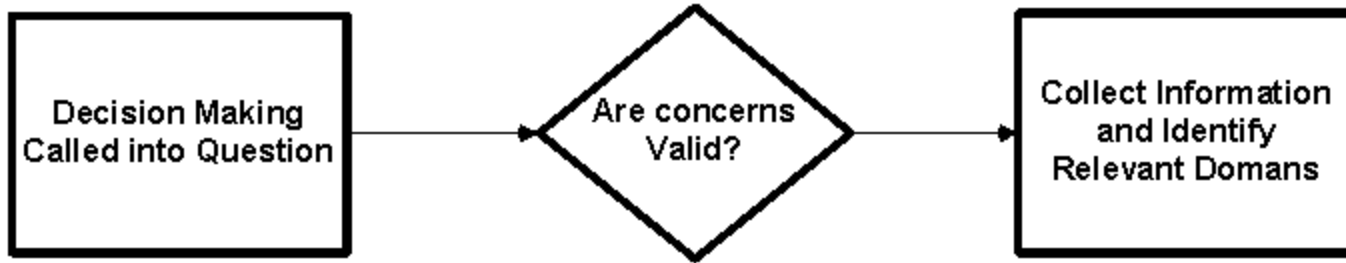
Formal Capacity Ax:  
When Problems Cannot  
be Solved by Less  
Intrusive Means



# **Early Assessment:**

**Initial Assessment: Reasons for Assessment, Domains and Risks**

# Validating Reasons and Identifying Domains



# Valid Reasons for Assessment

A formal capacity assessment may be necessary if the reason for assessment meets the following criteria:

1. An event or circumstance which potentially places a patient, or others, at risk that
2. **seems to be caused by impaired decision-making** which
3. Necessitates investigation, problem-solving (and possibly action) on the part of a health care professional

# Characteristics of Valid Reasons for Ax

1. **Substantive risk** to patient and/or others
2. Demonstrated or likely **behaviour**
3. There is **conflict** about the decision

# I Found a Reason for Assessment: Now what?

## ▶ SKILL TESTING QUESTION

- ▶ When you find a reason for assessment that seems to be caused by impaired decision-making, do you:
  - A. Get a MMSE, sign that guardianship medical and place the patient in LTC!
  - B. Gather collateral information, identify the affected domains, and attempt to problem-solve the issues.

# Reasons for Ax: Information Gathering

- ▶ Gather a holistic history of previous functioning. This will help to:
  - ▶ Place the patient's current level of functioning in a broader context (e.g., gradual or acute change in function).
  - ▶ Rule out alternative causes for the reason.
  - ▶ Assist with problem-solving by identifying what has changed, what solutions have already been tried, etc.

# Reasons for Ax: Information Gathering

- ▶ A detailed picture requires multiple sources of information, such as:
  - ▶ Netcare
  - ▶ Families
  - ▶ Homecare / Supportive Living / CCC
  - ▶ Resident managers
  - ▶ Community Pharmacists
  - ▶ Family Physician



# Identifying Domains

- ▶ Decisions can be categorized into functional “Domains”
- ▶ Domains help guide your information gathering.
- ▶ Incapacity in one domain does not necessarily signify incapacity in other domains
- ▶ Each domain must be assessed separately

# Identifying Domains

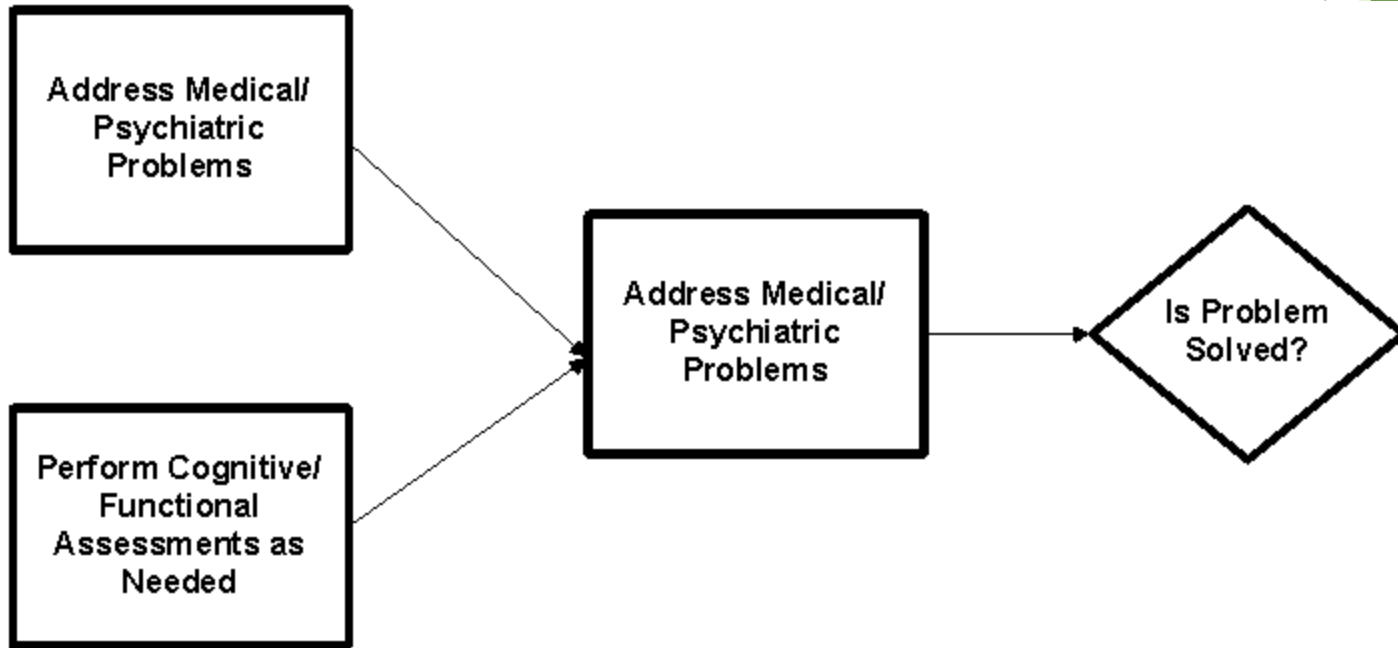
## Domains of Decision-Making

Health care	Participation in social activities
Accommodation	Participation in educational activities
With whom to live & associate	Participation in employment activities
Legal matters	<b>Financial and Estate</b>

The background features abstract, overlapping green geometric shapes in various shades, including light lime green, medium green, and dark forest green. These shapes are primarily located on the right side and bottom of the slide, creating a modern, layered effect.

# **Assessment in Depth: Problem Solving Using Cognitive and Functional Testing**

# Care Map - Assessments and problem solving



# Delirium

- ▶ Rule out alternative causes for the reason.
- ▶ Definition:
  - ▶ A temporary disordered mental state, characterized by acute and sudden onset of cognitive impairment, disorientation, disturbances in attention, decline in level of consciousness or perceptual disturbance.
  - ▶ Important to know a persons baseline level of function, cognitive status, and physical health

▶ Delirium Self-Study Module, Capital Health Intranet

# Functional Assessment

- ▶ Determine person's ability to perform activities:
  - ▶ Basic ADLs (self-care)
  - ▶ Instrumental ADLs (home management, finances, med. management, etc.)
- ▶ Information about current and premorbid level of function gathered from:
  - ▶ Patient
  - ▶ Family members/caregivers
  - ▶ Team members

# Functional Assessment

- ▶ Target situations relevant to independent living
- ▶ Require ability to problem solve, demonstrate one's knowledge, or perform a task.
  - ▶ Direct observation
  - ▶ Standardized testing.

# Cognition

- ▶ Cognition: ability to process, store, retrieve, and manipulate information
- ▶ Attention, orientation, and memory are the basic processes upon which are built the higher cognitive functions
- ▶ Higher cognitive functions:
  - ▶ Knowledge
  - ▶ Ability to manipulate old knowledge (calculations)
  - ▶ Social awareness
  - ▶ Judgment
  - ▶ Abstract thinking.



# Executive Function

- ▶ Higher level cognitive processes which mediate goal-directed activity and assist our ability to execute tasks.
- ▶ It includes:
  - ▶ Reasoning/ make decisions, adapting the course of action or manipulating information as required.
  - ▶ Prioritize tasks/initiate/stop tasks
  - ▶ Behavioral planning
  - ▶ Problem-solving skills
  - ▶ Ability to function effectively in the environment

# Cognitive Testing

- ▶ Types of tests used:
  - ▶ MMSE
  - ▶ MOCA
  - ▶ NCSE/Cognistat
  - ▶ EXIT/FAB
  - ▶ Kitchen Task Assessment
  - ▶ CCT
  - ▶ Psychological Testing

# Testing Limitations

- ▶ Level of consciousness
- ▶ Education
- ▶ Cultural background
- ▶ Language
- ▶ Vision
- ▶ Hearing
- ▶ Comorbidities (aphasia, delirium, depression)

# Cognitive Assessment

- ▶ Testing is not always equivalent to a persons function
- ▶ Decisions cannot be made on the score alone.
- ▶ There is no cognitive test that will determine capacity
- ▶ Cannot solely used to determine one's capacity for decision making.

# A Word on Problem-solving

- ▶ Be creative !!
- ▶ Involve patients and families in problem-solving
- ▶ Seek perspectives from other team members
- ▶ Consider formal resources
- ▶ Mobilize informal resources
- ▶ Issue may be resolved by problem solving without formal capacity assessment

# Assess Risk

- ▶ Investigate and document risky and unsafe situations prior to admission
- ▶ Determine how long the risks have existed
- ▶ Explore ways to reduce risk that might resolve the issue without resorting to formal capacity assessment
- ▶ Assess the severity of the risk: the higher the risk to the patient or others, the stricter the standards

# Back to our Case Study

- ▶ Home visit completed. Mrs. T was unable to remember the details of the appointment, so the appointment was made with her caregiver
- ▶ SMMSE score 28/30
- ▶ Level of function demonstrated, and collateral history given by the caregiver and home care was inconsistent with the score on the SMMSE

# Case Study

- ▶ MoCA: Score 20/30
- ▶ EXIT: 13/50
- ▶ Functional Assessment:
  - ▶ Kitchen Assessment - serious safety concerns
  - ▶ Money Management - inaccurate when counting \$
  - ▶ Medication Management - Unable to remember to take pills. Unable to manage diabetes



# Case Study: Assessment Findings

- ▶ Consider level of assistance required
  - ▶ Is another family member/caregiver able to assist the patient?
  - ▶ Can services be initiated to assist the patient in performing these tasks while remaining in their current residence?

# Case Study

## ► Recommendations:

- Unplug stove. Use microwavable meals or arrange hot meals from Meals on Wheels
- Have caregiver assist with bill paying, and supervise monetary transactions
- Bubble pack medications and monitor use. Home Care to assist
- Continue with the assistance of the caregiver for grocery shopping, transportation
- Recognize the caregiver's support outside the sphere of function, for example, general health management and monitoring, emotional support and friendly interaction

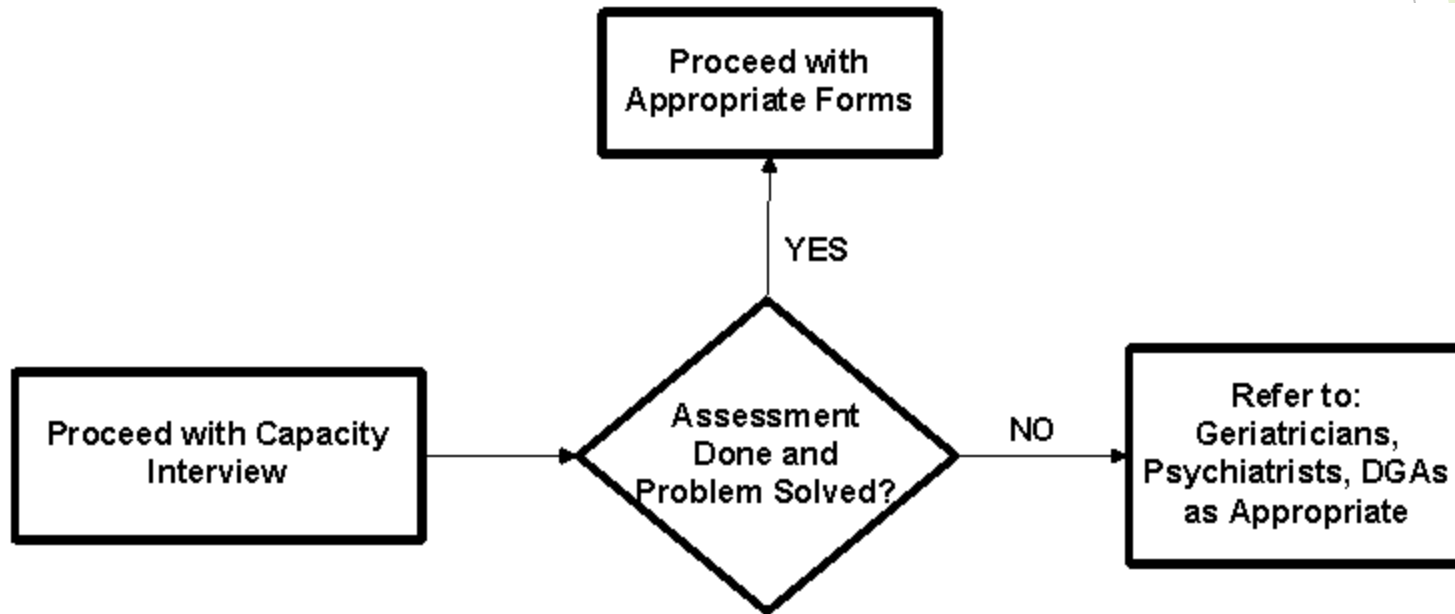
# Summary

- If solution is acceptable to patient and family/caregivers addressing specific issues → proceed with plan
- If solution is unacceptable → may need to proceed to capacity interview.

# Reasons for Formal Capacity Interview

- ▶ No adequate solutions from problem-solving
- ▶ Risk to patient / others too high
- ▶ Other, less intrusive methods, have failed
- ▶ Appointment of legal decision-maker may solve the problem
- ▶ Problem persists or becomes worse
- ▶ Remember: a determination of incapacity may do nothing to fix the problem

# Care Map - Capacity Interview



# Anatomy of a Competent Decision

- ▶ The decision-maker is aware of the choices that are available.
- ▶ The decision-maker understands the reasonably foreseeable effects or consequences of each choice.
- ▶ The decision-maker makes a choice after weighing the relative benefits and disadvantages of the choices available.



### Capacity Interview Worksheet

Affix patient label within this box

Has the adult given consent to conduct the assessment? <input type="checkbox"/> No, complete this information <input type="checkbox"/> Yes	Is it in the best interest of the adult to conduct the assessment? <input type="checkbox"/> No <input type="checkbox"/> Yes
	Has the adult refused to participate in the assessment? <input type="checkbox"/> No <input type="checkbox"/> Yes
Comments _____ _____ _____ _____	

Identify the domain(s) in which the adult's capacity is to be assessed:

<input type="checkbox"/> Healthcare	<input type="checkbox"/> Accommodation	<input type="checkbox"/> Choice of associates
<input type="checkbox"/> Social/leisure activities	<input type="checkbox"/> Education/vocational training	<input type="checkbox"/> Employment
<input type="checkbox"/> Other (specify) _____	_____	





# Learning Objectives:

- ▶ A Capacity Assessment process
- ▶ An interdisciplinary approach
- ▶ Capacity assessment worksheets
- ▶ Your role in assessment of capacity

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