

CAPACITY PRINCIPLES

Five Statutory Principles

MCA 2005

Always presume a patient has capacity

Patients must be given all appropriate help before concluding they can't make a decision

Patients can make 'unwise' decisions

All decisions must be in the patients best interests

Always chose the least restrictive intervention that is within the patients best interests

ASSESSING CAPACITY

Is the person over 16 years of age?

No

MCA does not apply

Decisions should be made in accordance with law and ethics of decision-making in relation to children

Yes

Are there reasonable grounds to suspect the patient lacks capacity?

No

Consent should be sought in usual manner

Remember patient have right **not to consent** to procedures / make unwise decisions

Yes

Can the decision be put off until such a time the patient (may) regain capacity?

Yes

Delay decision

Delay decision until the patient regains capacity

No

Assess Capacity

Does the patient have impairment or disturbance of the mind or brain?

No

Consent should be sought in usual manner

Remember patient has right **not to consent** to procedures / make unwise decisions

Yes

Might the impairment mean the patient is unable to make the decision?

No

Consent should be sought in usual manner

Remember patient has right **not to consent** to procedures / make unwise decisions

Yes

Does 'No' apply to any of the following?

Can this patient retain the information for long enough to make the decision?

Can the patient understand the information necessary to make the decision?

Can the patient use or weigh the information in order to make the decision?

Can the patient communicate the decision by any means?

Yes

Patient lacks Capacity

Make a decision on behalf of the patient in their best interests

No

Patient has Capacity

Consent should be sought in usual manner

CONSENT PRINCIPLES

Consent Principles

Consent is required on every occasion a doctor wishes to initiate an examination, treatment or intervention *except in emergency

Consent can be explicit (patient actively agrees either orally or in writing)

Consent can be implied (signalled by behaviour of an informed patient)

Patients must be appropriately informed (know and understand what is being proposed) in order for consent to be valid

Consent is not a one off event, thus important there is continuing discussions to reflect evolving nature of treatment

Patients can withdraw consent at any time

GAINING PATIENT CONSENT

In order for valid Informed consent, you must explain the following

Purpose of proposed examination, investigation or treatment

Benefits of proposed examination, investigation or treatment. And likelihood of success for any given treatment

Risks of proposed examination, investigation or treatment

Risks of **not** performing proposed examination, investigation or treatment

Alternatives to proposed examination, investigation or treatment

Patient can choose to withdraw consent at any time

The amount of information provided will vary according to factors such as the nature and severity of the condition, the complexity of the treatment, the risks associated with the treatment or procedure and the patient's own wishes

Follow local hospital guidelines on type of consent that is required for what you are proposing i.e. written for surgical, verbal for blood test etc

In order to provide the above information, you must be suitably trained and qualified, and sufficiently familiar with the proposed examination, investigation or treatment