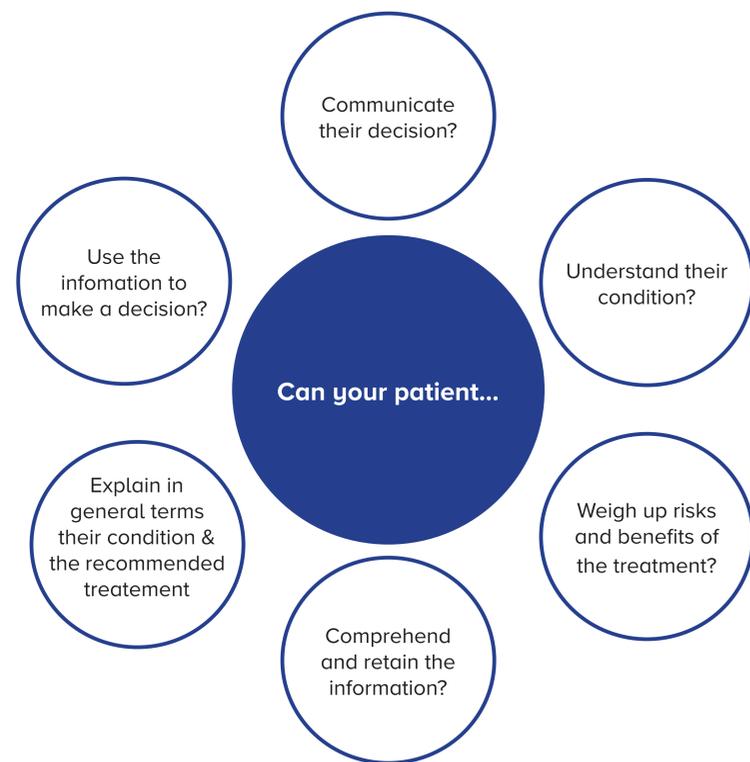
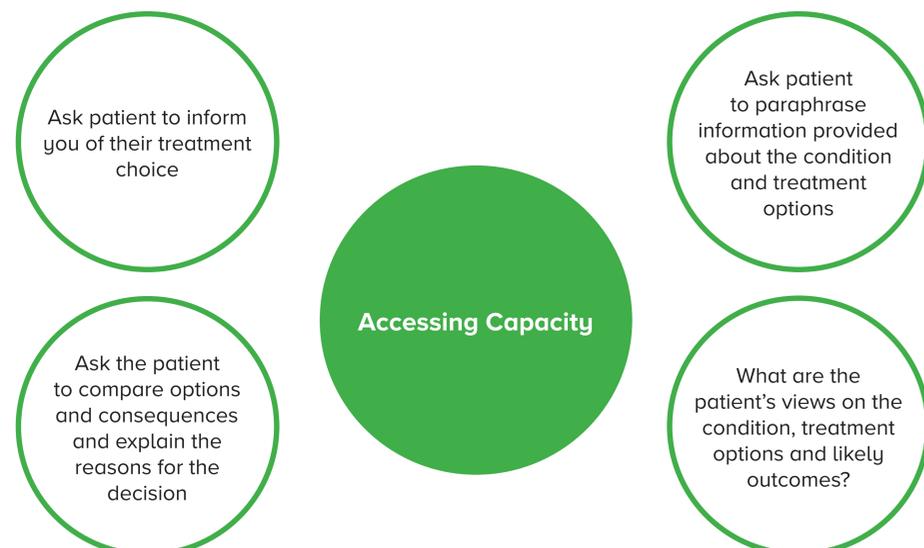


Does your patient have capacity to consent to treatment?



How can capacity be measured?¹



Introduction

The population is ageing at an unprecedented rate¹. We can therefore expect that the health sector will be faced with an increased proportion of aged patients. As people live longer, the total number of presentations to hospitals is likely to increase. With the percentage of the population over 65 years of age increasing, combined with the increasing rates of dementia, the healthcare sector will be presented with several challenges. One such challenge will be obtaining valid consent from this group of patients to undergo medical procedures.

Discussion

Today 8.5% of people worldwide are aged 65 and over and this percentage is projected to jump to nearly 17% of the world's population by 2050². In addition, global life expectancy is projected to increase by eight years. In a recent study 31% of patients admitted with acute conditions were assessed to lack the requisite capacity to consent but the practitioners rarely identified patients who lacked capacity³. It is said that more than 50% of patients with mild to moderate dementia may have impaired capacity and that incompetence is largely universal in those with severe dementia⁴. A lack of insight in psychiatric patients as to their condition and need for treatment, is the strongest predictor of incapacity⁵.

What the law requires for a person to validly consent to a medical procedure is well known, however assessing this can be problematic for the clinicians who are required to obtain the consent. Whether a person has the capacity to consent will also depend upon the nature of the risks involved in undergoing the recommended procedure. That is, a person may have the capacity to consent to some medical procedures which have a lower risk profile but not others with a higher risk profile. Additionally, a person's capacity may fluctuate and may be affected by things such as acute illnesses which impact on their cognitive function and capacity.

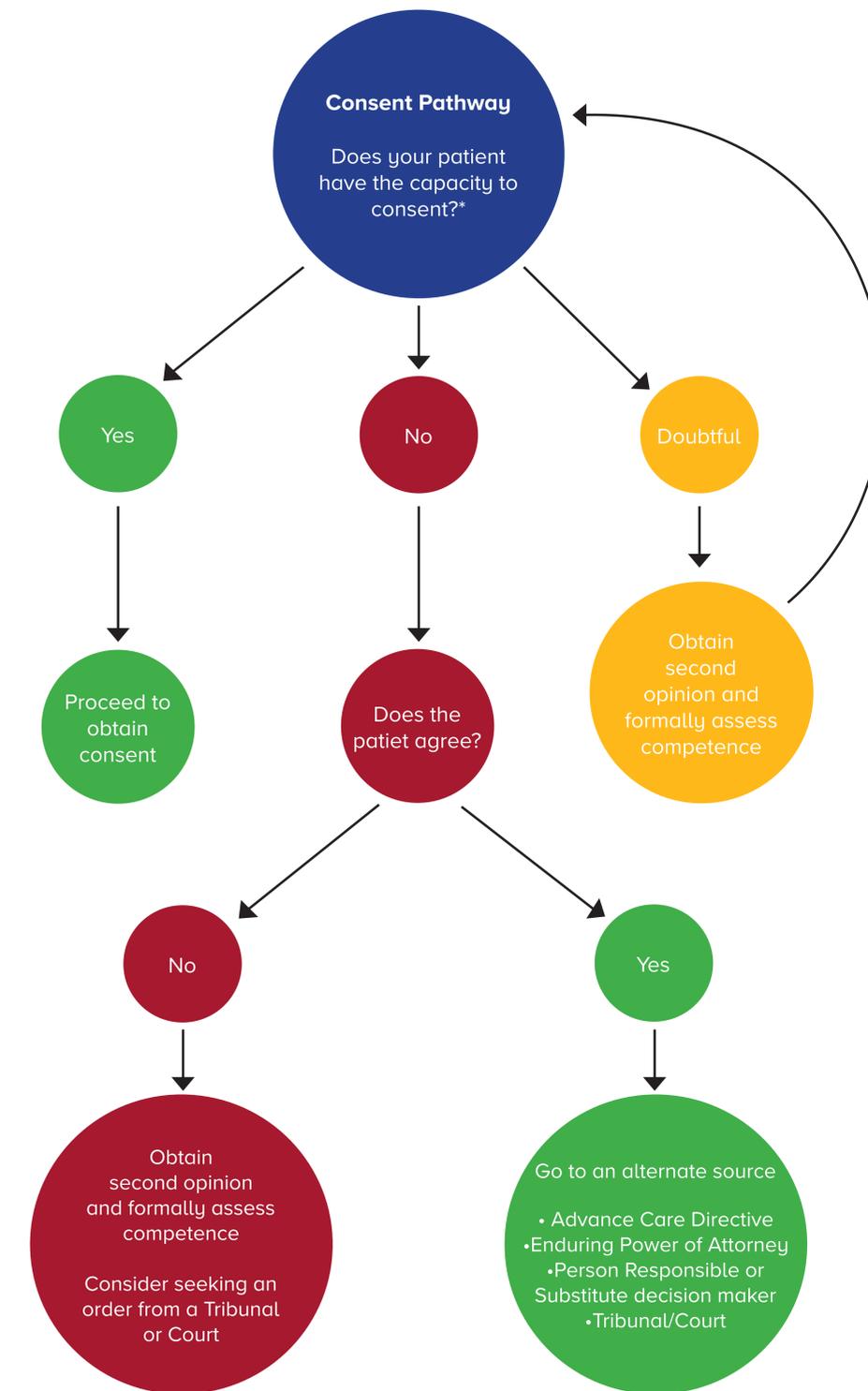
It is clear that in the future practitioners' roles in obtaining their patients' consent to enable a medical procedure to be performed, in circumstances where an increasing percentage of their patients are going to be aged 65 years and over, is likely to become more complex.

Conclusion

To ensure that a patient has validly consented to treatment, it is necessary that they have the capacity to consent, they consent without duress, their consent is for a specific treatment or procedure and that they have been adequately informed about the treatment in terms they can understand.

To have capacity to consent, a patient must be able to comprehend the information, be able to process that information to reach a decision and communicate it.

It is the practitioner providing the treatment who is legally obliged to ensure that the patient's consent is valid. In circumstances where a practitioner doubts a patient has the requisite capacity to consent, they must ensure the patient is properly assessed, and if the patient does not have capacity, obtain consent from an authorised source.



*emergency medical treatment can be provided without consent if it is necessary to save life or prevent serious disability as long as you are not aware that the patient would refuse the treatment if able to.

1 An Ageing World: 2015, National Institute on Ageing and produced by the US Census Bureau
2 Ibid
3 Raymont V, Bingley W, Buchanan A, et al. Prevalence of mental incapacity in medical inpatients and associated risk factors: cross-sectional study. Lancet 2004; 364:1421-1427
4 Kim SYH, Karlawish JHT, Caine ED. Current state of research on decision-making competence of cognitively impaired elderly persons. Am J Geriatr Psychiatry 2002;10:151-165
5 Cairns R, Maddock C, Buchanan A, et al. Prevalence and predictors of mental incapacity in psychiatric in-patients. Br J Psychiatry 2005; 187:379-385