



Alberta College of
Speech-Language Pathologists
and Audiologists
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Position Statement

Role of the Speech-Language Pathologist in Assessing Capacity for Decision-Making by Adults with Communication Disorders

Revised July 2018;
First Published February 2012



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Position Statement: Sets out the official position or stand of “the College” on an issue or matter that is significant to the professions of speech-language pathology and/or audiology, and to outside agencies or groups.

POSITION

It is ACSLPA’s position that SLPs have a role in capacity assessment of adults with known or suspected communication disorders. SLPs also have the skill set to be considered eligible to participate in capacity assessor training.

As in any practice area, SLPs who participate in capacity assessment are ethically responsible for providing competent care to the clients whom they serve. Specifically, according to one of several ethical obligations set out in ACSLPA’s *Code of Ethics*, “regulated members engage only in the provision of services that fall within their professional competence, considering their level of education, training and experience, access to professional supervision, and/or assistance from qualified colleagues” (ACSLPA, Code of Ethics, 2017, p. 5).

INTRODUCTION

The *Adult Guardianship and Trusteeship Act* of Alberta (AGTA, 2008) was enacted to ensure autonomy of adults in making decisions about personal and financial matters. A cornerstone of the AGTA is that adults are presumed to have the ability, or capacity, to make decisions about their personal lives. In the Act, capacity is defined as the ability to understand information relevant to making a decision about a matter and the ability to appreciate the reasonably foreseeable consequences of the decision, or failure to make the decision (AGTA, 2008, s.1(d)).

When an adult’s capacity to make a decision is called into question, a capacity assessment may be necessary. Capacity is assessed to help determine whether or not a co-decision maker, guardian, or trustee should be appointed for an adult (AGTA, 2008). Capacity assessments are also used to assist the Court in deciding whether an enduring power of attorney or personal directive should be enacted. Capacity is considered on a continuum: a person may have the capacity to make some decisions and not others. Also, a person may have capacity for decision-making at one point in time, and not another.

BACKGROUND

A capacity assessment involves determination of whether the adult being assessed is able to understand and retain information about a decision, understand options related to the decision, appreciate the reasonably foreseeable consequences of making or not making a decision, and communicate his/her preference [Government of Alberta, Office of the Public Guardian (OPG), 2008].

Because communication is central to determination of capacity, individuals who have communication disorders may be at a disadvantage during a capacity assessment. They may have challenges in expressing thoughts, asking questions, and demonstrating that they understand information presented to them. However, a communication disorder does not preclude a person's ability to retain and cognitively process information, to understand options, and to appreciate consequences of a decision. According to the AGTA (2008, s.2 (b)), "an adult is entitled to communicate by any means that enables the adult to be understood, and the means by which an adult communicates is not relevant to a determination of whether the adult has the capacity to make a decision." Thus, the person being assessed may have another person (e.g., an interpreter) or a device (e.g., electronic or non-electronic communication device), to aid communication during the capacity assessment (AGTA Reg., 2009, s.3(1)(d)).

The Regulation of the AGTA designates those health professionals who are qualified to conduct capacity assessments. All physicians and psychologists are designated capacity assessors. The Minister may designate other health care professionals as capacity assessors. Only registered nurses, registered psychiatric and mental deficiency nurses, occupational therapists and social workers are eligible for designation by the Minister. Existing legislation does not allow for SLPs to be designated as capacity assessors.

RESEARCH

To provide the foundation for this position statement, the committee conducted a review of the literature in the area of capacity assessment for individuals with communication disorders. Based on this review, the findings most relevant to this position statement are summarized as follows:

- Presence of a communication disorder (i.e., speech, language or cognitive-communication impairments) does not constitute lack of decision-making capacity (Carling-Rowland et al., 2014; Pachet, Allen and Erskine, 2012), but it may present barriers to assessment.
- Various methods are used to assess decision-making capacity (Aldous, Tomlie, Worrall, and Ferguson, 2014; Carling-Rowland and Wahl, 2010; Stein and Brady-Wagner, 2006; Zuscak, Peisah, and Ferguson, 2016). Published, formal tests of decisional capacity typically require proficiency in speech and language and are, therefore, problematic for many individuals with communication disorders (Carling-Rowland and Wahl, 2010; Ferguson, Duffield and Worrall, 2010). Thus, capacity assessors must have the skills to maximize client comprehension and ensure a reliable means of expression by adults being assessed (Brady-Wagner, 2003; Carling-Rowland and Wahl, 2010; Ferguson et al., 2010; McCormick, Bose, and Marinis, 2017).

- As communication specialists, SLPs should be involved in capacity assessment for individuals who have known or suspected communication disorders. SLP involvement is particularly necessary as subtle or mild communication disorders may go unrecognized by other members of the health care team (Davis and Ross, 2003).
- SLPs should use multiple methods of evaluation and several modalities of communication when involved in capacity assessments (Diener and Bischof-Rosario, 2004; Ferguson, et al., 2010; Finestone and Blackmer, 2007; Pachet et al., 2012; Suleman and Hopper, 2016).

RECOMMENDATIONS RE: THE ROLE OF THE SLP IN CAPACITY ASSESSMENT

Involvement by SLPs in capacity assessment may include, but is not limited to:

- screening communication of adults for whom capacity assessment is recommended,
- evaluating communication abilities of individuals undergoing capacity assessment,
- implementing and/or recommending facilitative communication strategies to be used during capacity assessments, based on documented communication abilities of the person being assessed,
- facilitating a capacity assessment by being present to provide communication support as required by the assessor and the individual being assessed,
- referring individuals to be assessed to audiologists as appropriate, and
- educating the public and other health care professionals regarding: (a) the impact of communication disorders on capacity assessments, and (b) the link between cognition, decision-making capacity and communication.

The involvement by SLPs in capacity assessment of adults with communication disorders will increase the fairness of the capacity assessment process by ensuring individuals have the opportunity and means to understand and express themselves as fully as possible (Carling-Rowland, 2011; Suleman and Hopper, 2016).

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RESOURCES

<https://www.alberta.ca/help-incapable-adults.aspx>

(See copies of the AGTA and PDA)

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