AGA Guiding Principles

- The right for adults to live at risk and to accept or refuse supports (as long as they are not harming others and are capable of making decisions about matters related to the risk)
- The right for adults to receive the most effective, but least restrictive and intrusive form of support and assistance (court as a last resort)
- The right for adults to be presumed capable until the contrary is demonstrated (always assume capability, and then assess for incapability only when there is a decision to be made and there are signs that capability may be an issue)

Designated Agency’s Role:

- When an employee becomes aware of a situation in which a vulnerable adult is suspected of being abused, neglected or is self-neglecting the employee must determine if the adult is able to seek support and assistance on his/her own
- Part of the designated responder process is to coordinate the assessment of the adult’s ability to seek/refuse support and assistance

The Four Guiding Principles of Capability Assessment:

- about a particular DECISION (whether or not to accept/refuse support and assistance)
- within a particular DOMAIN (e.g. health care decisions, finances)
- at a particular POINT IN TIME
- within a SOCIAL CONTEXT

*capability assessment is NEVER a global assessment, scores on various cognitive functioning tests add to our understanding of a person, but do not automatically answer the question of whether or not someone is capable of making a particular decision.

Presume Capability

Be aware of assumptions based on cognitive impairment, age, physical disability, diagnosis, cultural beliefs, religious beliefs, gender, “risky decision making”, or communication style

Vulnerability is...

- Relative (a person is more or less vulnerable)
- Relational (someone is vulnerable TO something – such as abuse/neglect)
- A Social Condition (certain groups of people are more vulnerable to abuse because of external factors such as discrimination, racism, ableism, heterosexism, etc).

Vulnerability is not...

- Reducible to a disability issue
- An inherent quality
- A static concept – people and circumstances change¹

The path of least intrusion:
- Support decision-making capacity and reduce vulnerability by offering supports, BEFORE proceeding with more invasive assessments or legislative options

The Six-Step Capacity Assessment process

1. **Determine if capacity assessment is necessary:**
   - An adult is at-risk of abuse/neglect or self-neglect
   - A person is known or suspected to have impaired decision-making (has "symptoms of a cognitive impairment")
   - There is a decision at hand
   - All attempts have been made to be ‘least intrusive’ and reduce vulnerability

Consider factors that can contribute to difficulties with decision-making capacity:
- Medications
- Drug interactions
- Dementia
- Mental illness (e.g. depression)
- Medical conditions (e.g. delirium)
- Drug and/or alcohol use
- Developmental disabilities

2. **Engage the person being assessed in the process.**
   - Inform them that their capacity has been called into question and they, or others, are at risk (they are informed of the signs of this)
   - Inform them that a capability assessment will proceed, and it is in their best interests to become involved to give every chance to prove capability
   - Inform them of the steps in the process
   - Inform them that if the result of the assessment is that they have capacity, they will continue to make decisions. If not, a substitute decision-maker will make decisions in consultation with them

3. **Consider Social Context and Ethical Principles.**
   - Consider accessing the VIHA Ethics Resource Staff to think through dilemmas
   - Include alternative perspectives, ideas and understandings to reframe problems
   - Recognize and call into question your own ideology without becoming defensive
   - Learn about the impacts of colonization, racism, ageism, ableism
   - Make an effort to understand a person’s previously expressed attitudes, opinions, values, preferences and decisions BEFORE evaluating their capacity
   - Include a conversational method of assessing capability; don’t only rely on the use of standardized tests

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Developed by Kayla Melchior May, 2010
4. **Educate the person about the decision, and support decision-making capacity.**

Consider what information you are required to give regarding health care decisions (from the Health Care (Consent) and Care Facility (Admission) Act:
- the condition for which the health care is proposed
- the nature of the proposed health care
- the risks and benefits of the health care
- alternative courses of health care
- along with *an opportunity to ask questions and receive answers*

**Maximize decision-making capacity:**
- Ask clients how they have made decisions in the past, and what they need to help them make the decision
- Ask clients whom they would like to consult with when making decisions

**Consider how to communicate:**
- Use accessible language, consider literacy
- Write down the options with risks and benefits (diagrams? charts?)
- Use translators when needed
- Make sure hearing aids and communication devices are working

**Consider the environment:**
- Quiet surroundings in a private location
- Give people time to respond
- Time of day
- Physical state (have they eaten, are they hydrated?)

**Consider the social context:**
- Ask the client who would be helpful to have in the room
- Consider safety issues in relation to abuse / neglect

**Treatment of underlying conditions:**
- Medication review, medication reminders
- Assessment and treatment of underlying mental or physical illness
- Support for substance use issues
- Support for activities of daily living, proper equipment
- Nutritional support

5. **Perform the assessment.**

- MRC should **coordinate the assessment** by making use of the multidisciplinary team
- People involved in the assessment may include: Client’s family and community as appropriate, GP, CM, HCN, OT, Geriatrician, Psychiatrist, PGT, others
Helpful Documentation as you go:
- The circumstances that triggered the assessment, including reasons for assessing for incapability under the AGA Part 3.
- The various choices presented to the client as well as the response of the client to these choices.
- The potential consequences of the choices as well as the response of the client to these potential consequences.
- Comments on the client's ability to appreciate how the information presented to them does or doesn't apply to them.
- Comments on the client's ability to reason with the choices.
- Information on the client's current medical condition and medications.
- The results of any standardized tests that have been used.
- Comments on the factors you think may be impacting a person's capability, and any collateral information gathered from others.
- Information on contextual factors affecting the person

The clinical interviewing approach to assessment

The ability to express a choice:
- Have you decided whether or not to go along with the suggested plans for support?
- Can you tell me what your decision is? (can repeat this question at end of the interview to assess stability of choice)

The ability to understand information:
Please tell me in your own words what you have been told about:
- What is happening for you
- What her recommendations were
- The benefits of the support
- The risks or discomforts of the support
- What the alternatives are
- What the risks and benefits are if you do nothing
- What the likelihood is that something might happen

The ability to appreciate how the situation applies to oneself:
- Tell me what you really believe is going on for you right now?
- Do you believe that you need some kind of support?
- What is support likely to do for you?
- What do you think will happen if you don't have the support?
- Why do you think people have recommended that for you?

The ability to reason:
- Tell me how you reached the decision to accept or reject the recommended support?
- What factors were important to you in reaching that decision?
- How did you balance those factors?

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Developed by Kayla Melchior May, 2010
Consider gathering information from cognitive assessment tools that have been used:
- MMSE (Mini-Mental State Exam)
- 3MS (Modified Mini Mental State Exam) with CDT (Clock Drawing Test)
- MoCA (Montreal Cognitive Assessment)
- RAI-HC (Residential Assessment Instrument – Home Care)
- Financial Assessment Tool
- FBI (Frontal Behavioral Inventory)

6. **Take actions based on the results of the assessment.**

   **For an adult found CAPABLE of decision making:**
   - Offer support and assistance
   - Refer the adult to support services
   - Provide treatment from any injuries
   - Follow the domestic violence protocol

   **For an adult found INCAPABLE of decision making:**
   - Support the adult and include them in decision-making
   - Determine who can make decisions depending on the domain (refer to the Capability and Consent Tool BC Edition developed by VCH)

   **Involve the PGT in concerns of financial abuse IF:**
   - There is a concern about the individual’s mental capability to manage financial and/or legal affairs
   - There is a specific, urgent or immediate need, and
   - No other suitable person (family or friend) has the authority or is willing and able to act on the individuals behalf

   **Use legal tools or emergency provisions if necessary:**
   - Enter without a court order
   - Remove an adult from the premises
   - Provide emergency health care
   - Involve the PGT
   - *The Mental Health Act*

   **Court Orders under the AGA:**
   - Warrant to Enter For Purpose of Interview
   - Access Order
   - Interim Restraining Order, Long Term Restraining Order
   - Support and Assistance Order
   - Consent Order
   - Parental Maintenance Order
   - Support and Assistance plan if necessary (involve the PGT)

   **Reassess as needed**
   - remember that capability is about a point in time, because a person’s capability to make a decision may fluctuate, reassessment can be continuous

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