MENTAL CAPACITY ACT (2005) IN ENGLAND AND WALES

英國心智能力法簡介

EN-TZU, TIEN

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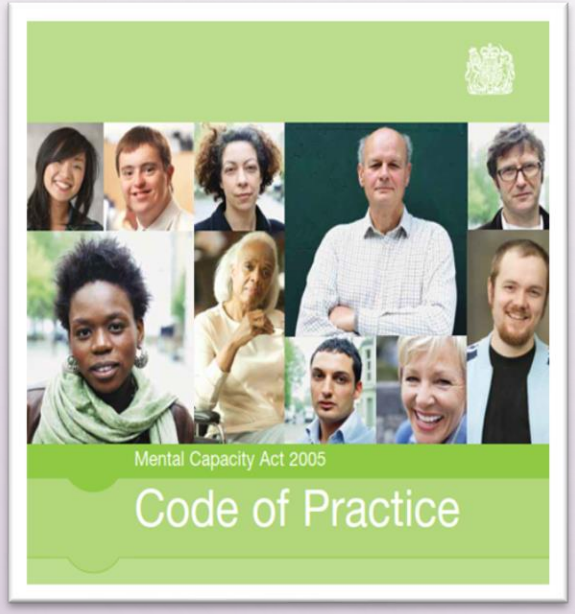
  (主責: 早期療育/兒科/外科&ICU/志工督導)

MENTAL CAPACITY ACT 2005
(ENGLAND AND WALES)



The Mental Capacity Act 2005

The Mental Capacity Act (The Act) 2005 came into force in England and Wales in 2007. The Act provides a statutory framework for assessing whether a person, aged 16 or above, has the mental capacity to make certain decisions

'…a person lacks capacity in relation to a matter if at the **material time** he is unable to make a decision for himself **in relation to the matter** because of an **impairment** of, or **disturbance** in the functioning of, the mind or brain.'

No decisions

ABOUT ME WITHOUT ME

電影：判決 THE CHILDREN ACT (2017)

INQUIRIES ABOUT PAA & MCA

Can a patient with minor dementia participate in ACP and establish a legal AD?

What is the feasible assessment tool for the PAA regulation in Taiwan?

The Autonomy for Patients with Dementia / Impaired Mental Capacity?

Who can prove the evidence / assess the sufficient facts and to claim a person who is "mentally deficient" ?

How to provide sufficient assistance to help patient with dementia participate in ACP and establish a legal AD?

THE DECLARANT IN PAA

ACCORDING TO PAA REGULATION：

- ARTICLE 8-1：PEOPLE WITH **FULL DISPOSING CAPACITY** MAY MAKE ADVANCE DECISIONS, AND MAY REVOKE OR ALTER THEM IN WRITING AT ANY TIME.
- 第八條第一項：具完全行為能力之人，得為預立醫療決定，並得隨時以書面撤回或變更之。
- ARTICLE 9-3：THE MEDICAL INSTITUTION PROVIDING ADVANCE CARE PLANNING, AS SET OUT IN SUBPARAGRAPH 1 OF PARAGRAPH 1, MAY NOT AFFIX ITS SEAL ON THE ADVANCE DECISION **IF THERE ARE SUFFICIENT FACTS SHOWING THAT THE DECLARANT IS MENTALLY DEFICIENT** OR DID NOT MAKE THE DECISION ON A VOLUNTARY BASIS.
- 第九條第三項：第一項第一款提供預立醫療照護諮商之醫療機構，有事實足認意願人具心智缺陷或非出於自願者，不得為核章證明。

HOW TO DEFINE "DISPOSING CAPACITY" LEGALLY IN TAIWAN?

ACCORDING TO **THE CIVIL CODE** IN TAIWAN, IT DIVIDES THE BEHAVIORAL CAPACITY INTO THREE STAGES ACCORDING TO THE AGE AND ACTUAL MENTAL STATE OF THE NATURAL PERSON:

(1) NO CAPACITY TO MAKE JURIDICAL ACTS： (無行為能力)

① HAS NOT REACHED THEIR SEVENTH YEAR OF AGE (<7 Y/O) (小於七歲)

② **HAS BECOME SUBJECT TO THE ORDER OF THE COMMENCEMENT OF GUARDIANSHIP (受監護宣告)**

(2) LIMITED CAPACITY (限制行為能力)

① OVER SEVEN YEARS OF AGE, BEFORE A MAJORITY (大於七歲、但未成年者)

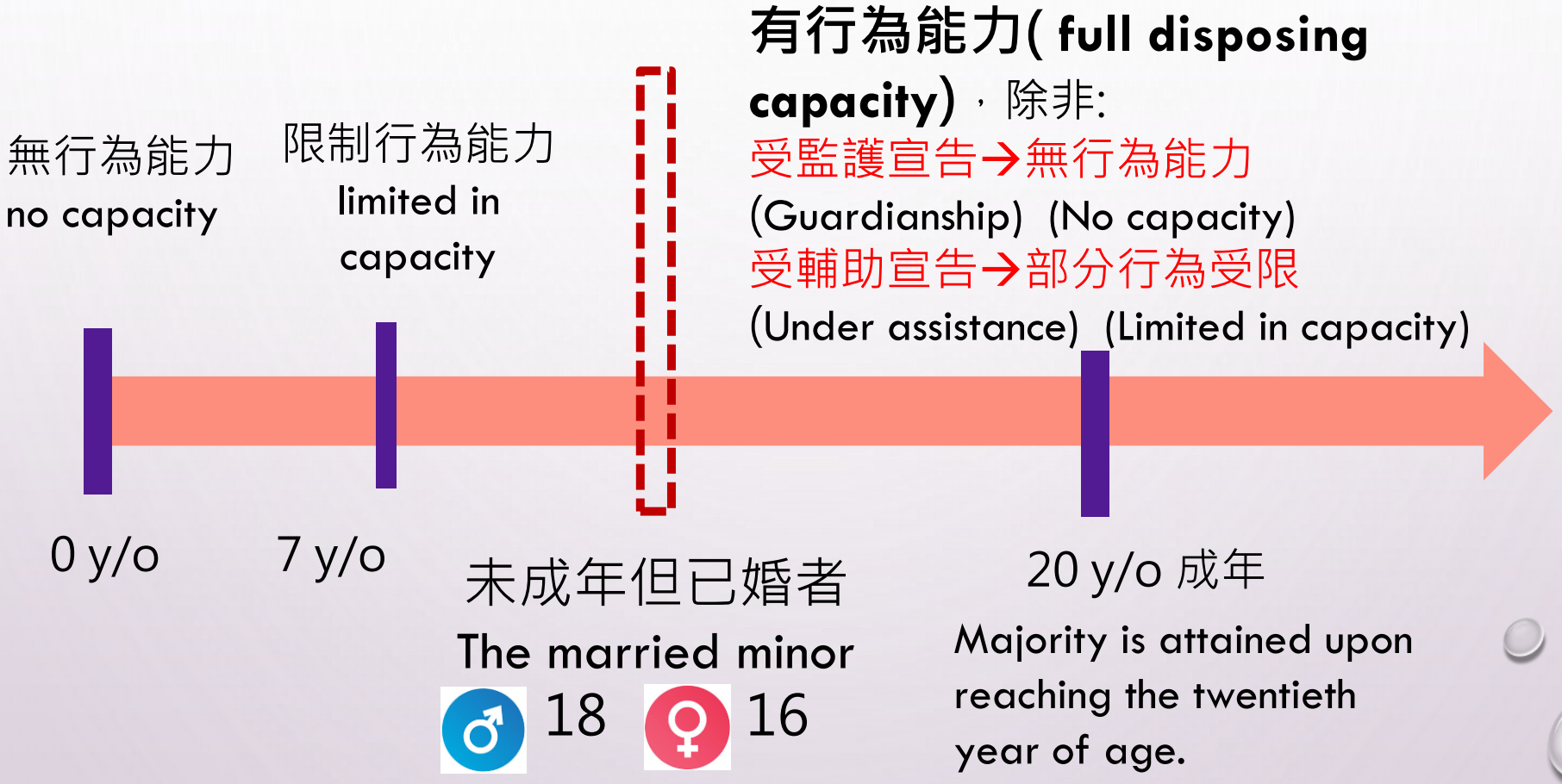
② **UNDER ASSISTANCE (受輔助宣告)**

(3) FULL DISPOSING CAPACITY (具行為能力)

① A MAJORITY WHO IS 20 YEARS OLD (滿20歲已成年者)

② THE MARRIED MINOR (MALE >18 Y/O, FEMALE > 16 Y/O) (未成年已婚者)

Civil Code Capacity in Taiwan
(台灣民法對於行為能力之定義)



THE AUTONOMY OF UNDER ASSISTANCE
(受輔助宣告者的自主權)

- A PERSON UNDER ASSISTANCE MUST OBTAIN THE CONSENT OF HIS/HER ASSISTANT IF HE/SHE INTENDS TO PERFORM ANY OF THE ACTS IN ARTICLE 15-2 (CIVIL CODE) ; PROVIDED, HOWEVER, THAT, THIS SHALL NOT APPLY TO ANY ACT RELATING TO **PURE LEGAL BENEFIT OR THE NECESSITY BASED ON THE PERSON' S AGE, STATUS, AND DAILY LIFE.**

  受輔助宣告之人雖因老化或精神疾病致其判斷能力有所不足，但其程度尚未到嚴重程度，故如有需要實施第十五條之二規定之特定法律行為時，**為尊重其個人之意思，由輔助人從旁以行使同意權方式協助其自行為之。**

- THE MAKING OR RECEIVING OF AN EXPRESSION OF INTENT OF A PERSON WHO IS LIMITED IN CAPACITY TO MAKE JURIDICAL ACTS MUST OBTAIN THE CONSENT OF HIS GUARDIAN, **EXCEPT WHEN THE EXPRESSION OF INTENT RELATES TO** THE **PURE ACQUISITION OF A LEGAL ADVANTAGE, OR TO THE NECESSARIES OF LIFE ACCORDING TO HIS AGE AND STATUS.**

  但純獲法律上利益，及依其年齡及身分、日常生活所必需者，即使無法定代理人之同意亦可有效 (民法15-2)。

- IT IS SAID THAT THE SO-CALLED **NEUTRAL BEHAVIOR,** BECAUSE TO THE MINOR THERE IS **NEITHER BENEFIT ALSO HARMLESS**, SO DO NOT NEED TO OBTAIN THE

PURE ACQUISITION OF A LEGAL ADVANTAGE

(CIVIL CODE, ARTICLE 15-2)

- A PERSON UNDER ASSISTANCE MUST OBTAIN THE CONSENT OF HIS/HER ASSISTANT IF HE/SHE INTENDS TO PERFORM ANY OF THE FOLLOWING ACTS; PROVIDED, HOWEVER, THAT, **THIS SHALL NOT APPLY TO ANY ACT RELATING TO PURE LEGAL BENEFIT OR THE NECESSITY BASED ON THE PERSON' S AGE, STATUS, AND DAILY LIFE:**

  (1) BEING A RESPONSIBLE PERSON OF A SOLE PROPRIETORSHIP, OF A PARTNERSHIP COMPANY, OR OF A JURISTIC PERSON;

  (2) MAKING LOANS FOR CONSUMPTION, CONSUMPTION DEPOSIT, A GUARANTY, A GIFT, OR A TRUST;

  (3) TAKING ANY PROCEDURAL ACTION;

  (4) AGREEING TO COMPROMISE, CONCILIATION, ADJUSTMENT, OR SIGNING ARBITRATION CONTRACT;

  (5) PERFORMING ANY ACT WITH THE PURPOSE OF OBTAINING OR RELINQUISHING ANY RIGHT REGARDING REAL ESTATE, VESSELS, AIRCRAFTS, VEHICLES, OR OTHER VALUABLE PROPERTY;

  (6) PERFORMING PARTITION OF THE INHERITANCE, LEGACY, WAIVING THE RIGHT TO INHERITANCE, OR ANY OTHER RELATED RIGHT;

  (7) PERFORMING ANY OTHER ACT, AT THE REQUEST OF THE PERSON OR HIS/HER ASSISTANT, APPOINTED BY THE COURT UNDER PREVIOUS PROVISION.

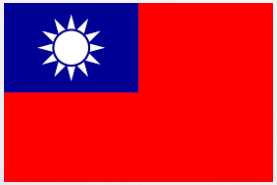
- THE PROVISIONS OF ARTICLES 78 TO 83 SHALL APPLY MUTATIS MUTANDIS TO CONDITIONS

DIFFERENT LAW SYSTEM

CIVIL LAW(大陸法)

PATIENT AUTONOMY ACT 2015

- EUROPE, TAIWAN, CHINA, JAPAN




- LEGAL SYSTEM ORIGINATING IN EUROPE WHOSE MOST PREVALENT FEATURE IS THAT ITS CORE PRINCIPLES ARE CODIFIED INTO A REFERABLE SYSTEM(法律條文) WHICH SERVES AS THE PRIMARY SOURCE OF LAW.

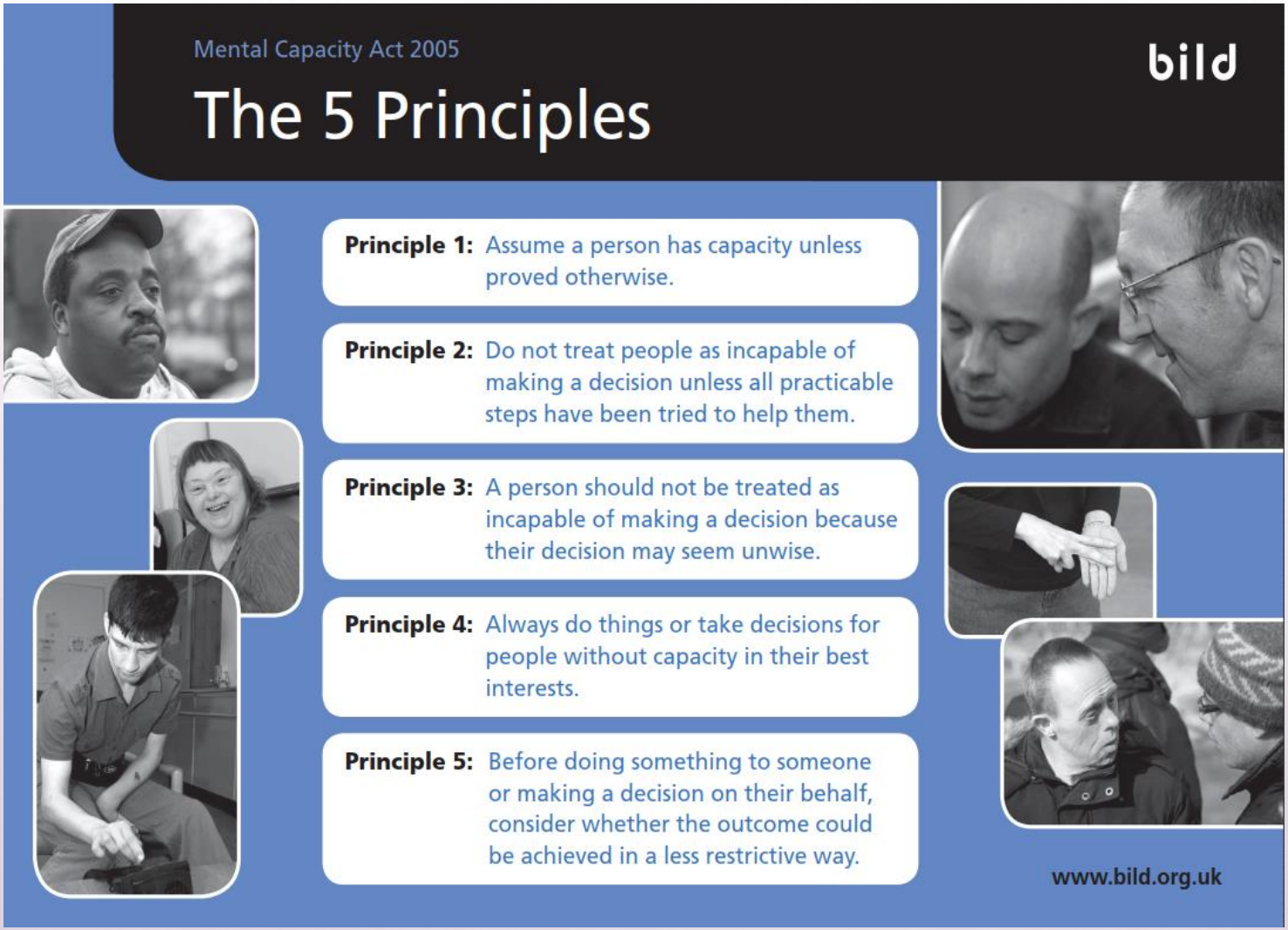
COMMON LAW(普通法)

MENTAL CAPACITY ACT 2005

- UNITED STATES, ENGLAND, SINGAPORE


- LEGAL SYSTEM CHARACTERIZED BY CASE LAW(判例為主), WHICH IS LAW DEVELOPED BY JUDGES THROUGH DECISIONS OF COURTS AND SIMILAR TRIBUNALS.[1]

MCA - FIVE STATUTORY PRINCIPLES



1. 能力推定
2. 最大協助
3. 避免偏見
4. 最佳利益
5. 最少限制

LASTING POWER OF ATTORNEY (LPA)

(1) Personal welfare LPA – 醫療委任代理人

- Personal welfare LPA gives your attorney the power to make decisions about **your daily routine (washing, dressing, eating), medical care, moving into a care home and life-sustaining medical treatment.**
- It can only be used if you're unable to make your own decisions.

(2) property and financial affairs LPA / Enduring Power of Attorney (EPA) -- 財務委任代理人

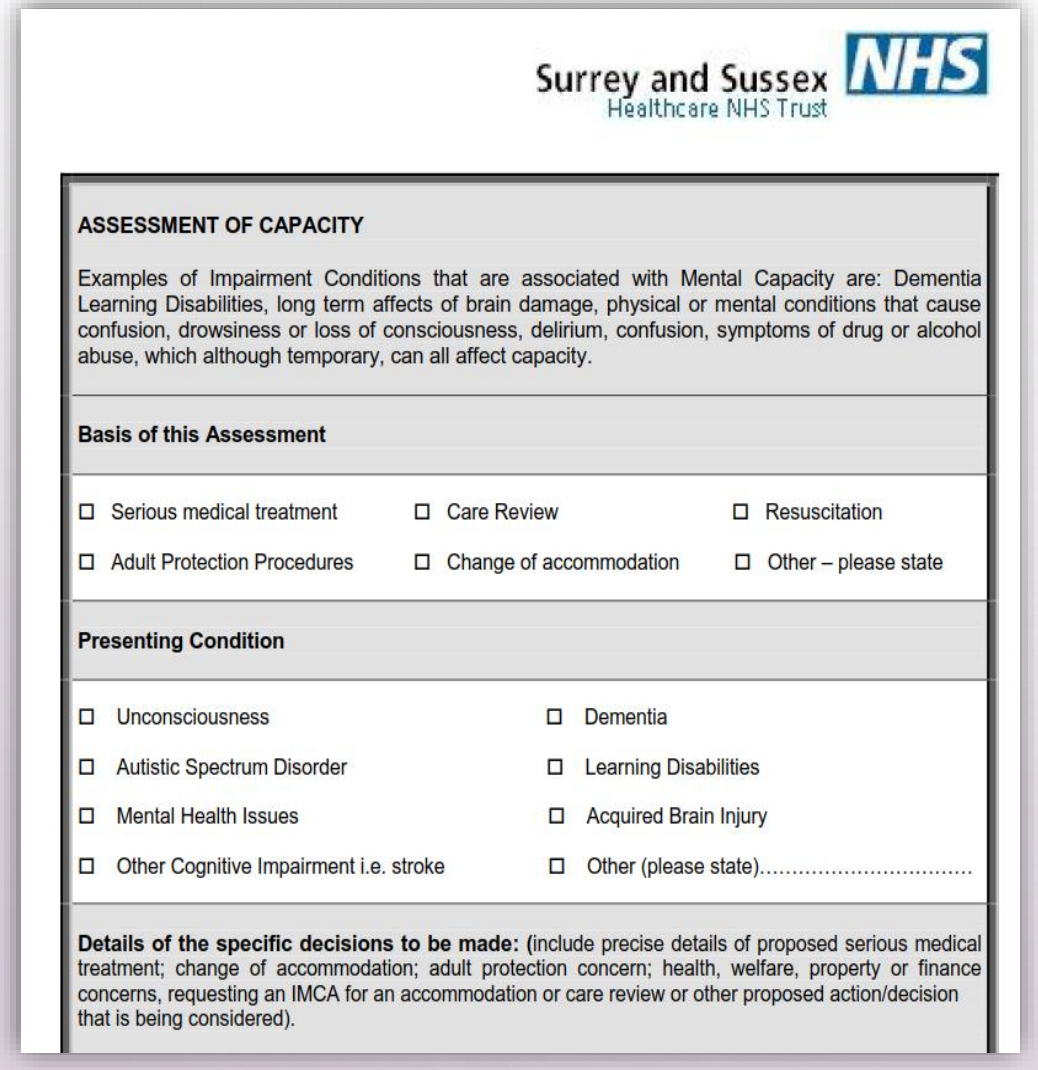
- Property and financial affairs LPA gives your attorney the power to make decisions about **your money and property, including managing your bank or building society accounts, paying bills, collecting your pension or benefits and, if necessary, selling your home.**
- Once registered with the Office of the Public Guardian, it can be used immediately or held in readiness until required.

FOUR ELEMENTS OF MENTAL CAPACITY ASSESSMENT

- **A PERSON IS UNABLE TO MAKE A DECISION FOR HIMSELF IF HE IS UNABLE—**
  - a) 理解：TO **UNDERSTAND** THE INFORMATION RELEVANT TO THE DECISION,
  - b) 存取：TO **RETAIN** THAT INFORMATION,
  - c) 衡量：TO **WEIGH UP** THAT INFORMATION AS PART OF THE PROCESS OF MAKING THE DECISION, OR
  - d) 溝通：TO **COMMUNICATE** HIS DECISION (WHETHER BY TALKING, USING SIGN LANGUAGE OR ANY OTHER MEANS).

MENTAL CAPACITY ASSESSMENT

FEASIBLE ASSESSMENT TOOL IN THE UK



Surrey and Sussex Healthcare NHS Trust

ASSESSMENT OF CAPACITY

Examples of Impairment Conditions that are associated with Mental Capacity are: Dementia Learning Disabilities, long term affects of brain damage, physical or mental conditions that cause confusion, drowsiness or loss of consciousness, delirium, confusion, symptoms of drug or alcohol abuse, which although temporary, can all affect capacity.

Basis of this Assessment

- ☐ Serious medical treatment
- ☐ Care Review
- ☐ Resuscitation
- ☐ Adult Protection Procedures
- ☐ Change of accommodation
- ☐ Other – please state

Presenting Condition

- ☐ Unconsciousness
- ☐ Dementia
- ☐ Autistic Spectrum Disorder
- ☐ Learning Disabilities
- ☐ Mental Health Issues
- ☐ Acquired Brain Injury
- ☐ Other Cognitive Impairment i.e. stroke
- ☐ Other (please state).....

Details of the specific decisions to be made: (include precise details of proposed serious medical treatment; change of accommodation; adult protection concern; health, welfare, property or finance concerns, requesting an IMCA for an accommodation or care review or other proposed action/decision that is being considered).

2 Steps Assessment:

Exclude issues that may affect physical or mental impairments :

- **Dementia**
- Learning Disabilities
- Acquired Brain Injury
- Unconsciousness
- Autistic Spectrum Disorder
- Learning Disabilities
- Other Cognitive Impairment i.e. stroke
- Other...

DEVELOP SAMPLE QUESTIONS FOR 4 MC ELEMENTS

1. UNDERSTANDING 理解

- DO YOU UNDERSTAND WHAT IS THE MEDICAL PROCEDURE OF THE SCENARIO (1 TO 3)?
- DO YOU KNOW WHEN IS THE TIMING FOR USING THOSE MEDICAL TREATMENTS?

2. RETAIN 存取

- CAN YOU REMEMBER WHERE TO INSERT THE ENDOTRACHEAL / NASOGASTRIC TUBE?
- CAN YOU REMEMBER WHEN PEOPLE WOULD NEED TO UNDERGO KIDNEY DIALYSIS?

DEVELOP SAMPLE QUESTIONS FOR 4 MC ELEMENTS

3. WEIGH 衡量

- DO YOU UNDERSTAND / KNOW THE RISKS AND BENEFITS OF MAKING OR NOT MAKING THE DECISION?
- CAN YOU USE YOUR OWN WORDS TO TELL ME WHY YOU MAKE THE DECISION?

4. COMMUNICATE 溝通

- CAN YOU USE YOUR OWN WORDS TO TELL ME WHY YOU MAKE THE DECISION?
- WHAT IS YOUR CONCERNS ABOUT THE DECISION?

BEST INTERESTS ASSESSMENT

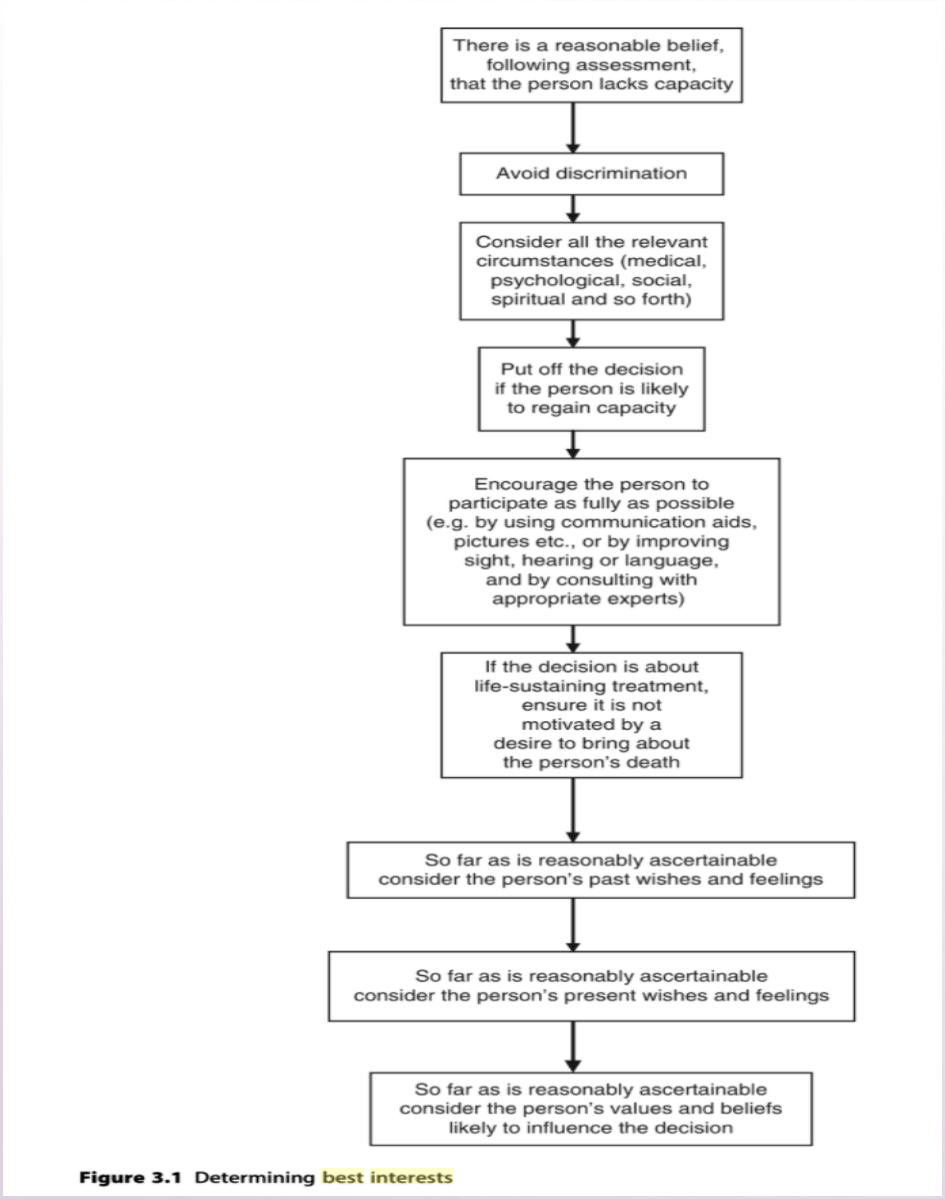


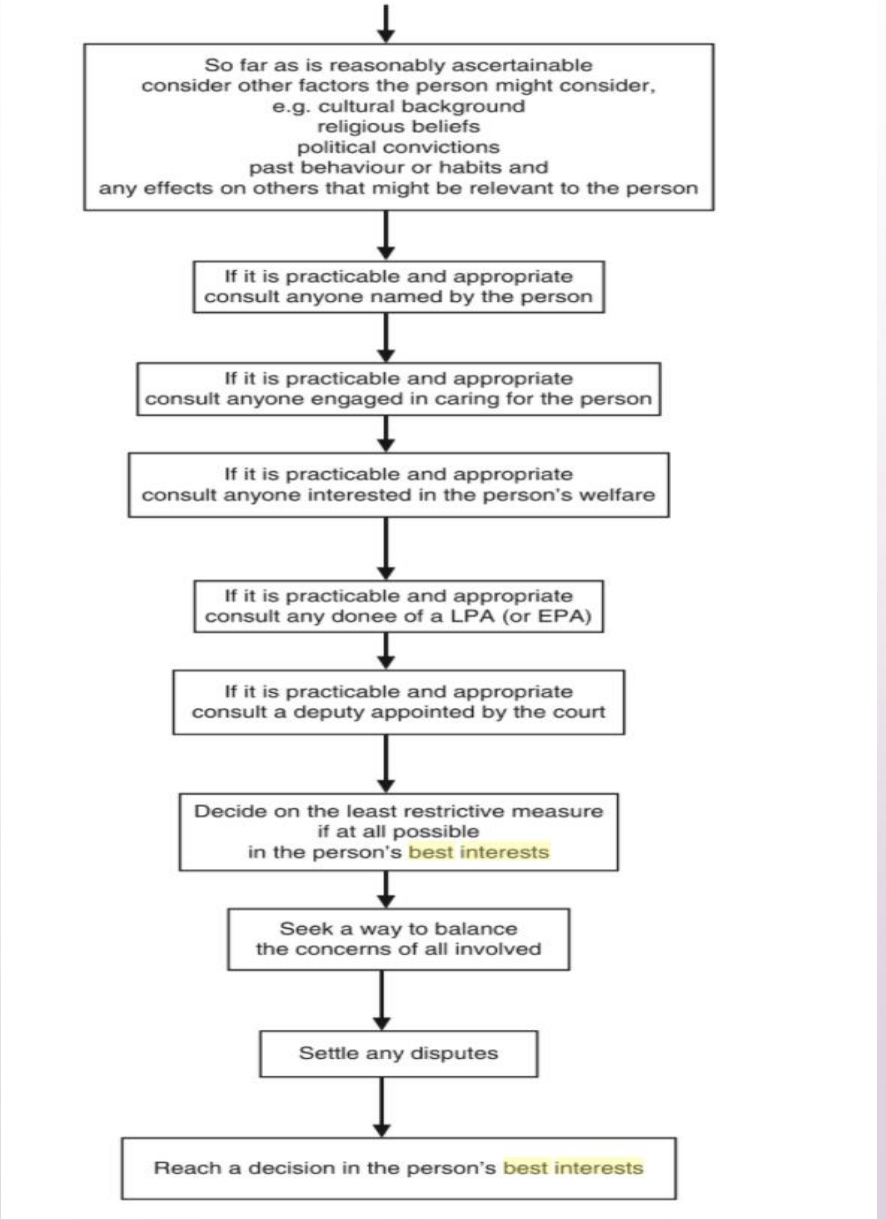
Figure 3.1 Determining best interests

- 合理的信念，且當事人失去意思決定能力
- 避免偏見
- 考慮各種情境（醫療、心理、社會、靈性等）
- 若當事人能恢復意識，則停止決定
- 鼓勵當事人參與決策（提供各種輔助工具）
- 若涉及維生醫療，確保決策的動機不是促成死亡
- 此決策是合理的可探知此人「過去的」心願及感受
- 此決策是合理的可探知此人「現在的」心願及感受
- 此決策是合理的可探知此人的價值、信念影響此決定

Reference: "Best Interests," by J.C. Hughes, 2013, in R. Jaob, M. Gunn, and A. Holland(Eds.), Mental Capacity Legislation: Principles and Practice (pp. 33-53), London, UK: RCPsych.

BEST INTERESTS ASSESSMENT

- 合理的考慮其他因素（文化、宗教、政治、過去行為、習慣）
- 是否有實際且適當的諮詢當事人所指定的人
- 是否有實際且適當的諮詢當事人的照顧者
- 是否有實際且適當的諮詢對於當事人福祉有興趣者
- 是否有實際且適當的諮詢當事人的授贈者 Donee of LPA
- 是否有實際且適當的諮詢法院所指定的代理人
- 在最小限制的情況下決定當事人的最佳利益
- 尋求一個能夠平衡所有的考量與面向
- 擺平所有爭端/疑慮/衝突等問題
- 做成符合當事人的最佳利益決策



Reference: "Best Interests," by J.C. Hughes, 2013, in R. Jaob, M. Gunn, and A. Holland(Eds.), Mental Capacity Legislation: Principles and Practice (pp. 33-53), London, UK: RCPsych.

MENTAL CAPACITY ASSESSMENT

Manchester City Council · Manchester Mental Health and Social Care Trust NHS · University Hospital of South Manchester NHS Foundation Trust · Central Manchester University Hospitals NHS Foundation Trust · MSAB · The Pennine Acute Hospitals NHS Trust

Mental Capacity Assessment

Please refer to the associated guidance document (page 4-8) and/or chapters 2, 3 and 4 of the Mental Capacity Act (MCA) Code of Practice before undertaking an assessment

Name of adult:	Mrs R
Date of Birth:	
Person's first language:	French but speaks good English
NHS number:	
Name of Assessors:	Laura Dunn and Tom Curtis
Job title / role:	Student physiotherapist and physiotherapist
Date(s) and time(s) of assessment:	25/11/16 15:00 02/12/16 14:45

Section 1: The decision in question

Describe the decision that the person is making:
A decision as to the most appropriate discharge destination from hospital because Chorlton Place, her previous place of residence, report they are unable to cope with her needs.

Section 2: People consulted

Mrs R's daughter.

Section 3: Support given to make the decision / maximise capacity

The MCA Code of Practice states that the level of support depends on personal circumstances, the type of decision to be made and the time available to make the decision.

The following sections (including the two-stage test) should only be undertaken once all practicable support to help the person make the decision has failed – in that there is still doubt about the person's ability to make the decision. (Code of Practice 4.13).

Discussion took place in a quiet and distraction free environment. Information was clear and simple ensuring Mrs R could hear. Mrs R was able to repeat some words when speaking to her showing she could hear.

Section 4: The diagnostic test of capacity (stage one)

Does the person have an impairment of, or disturbance in the functioning of their mind or brain? E.g. delirium, confusion, dementia, stroke, autism.	☒ Yes ☐ No **If no**, the person can be deemed to have capacity and you should proceed to the **conclusion section.** **If yes**, describe the nature of the impairment, e.g. a brief summary of the diagnosis, the source of any information and how the diagnosis might impact on decision making: Mrs R has a diagnosis of vascular dementia. Diagnosed approximately 4 years ago- reported by daughters 08/12/16. Mrs R presents as confused.

Additional information relating to the impairment	The impairment is: ☒ Permanent ☐ Temporary ☐ Fluctuating Please provide details: If the impairment is fluctuating or temporary would it be appropriate to delay the assessment? ☐ Yes ☒ No If yes, go to the conclusion section.

Section 5: Additional factors beyond the skills of the person

Are there any other factors beyond the cognitive and communication skills of the individual that you believe are affecting the person's ability to make a free and balanced decision?
This may include internal factors like low mood or external influences such as coercion or threats from others. The influence of any factors identified must also be considered as part of your decision-making in the next section (6)

None identified at time of assessment

In some instances you might also need to trigger safeguarding procedures if there is a concern that a person is at risk.

Section 6: The functional test of capacity (stage two) see guidance page 7

Do you consider the person able to **understand** the information relevant to the decision? This includes the person's understanding of how the decision arose and the options available to them	☐ Yes ☒ No **Evidence**: E.g. the questions you asked and the responses given (see associated guidance for more detail) 25/11/16 Explained to Mrs R that, prior to admission to hospital, she was living in Chorlton Place care home and consideration has been given to her moving to a different home. Mrs R was unable to recall this information and when asked what we had spoken about replied "its hard". 02/12/16 Mrs R was asked where she was living prior to admission to hospital. Mrs R was unable to answer and looked at daughter for the answer. I explained to Mrs R that she was living in a nursing home called Chorlton place but they are unable to accommodate her needs so need to look for somewhere else. I asked her to summarise this information but she was unable to. Mrs R was asked where she want to go after discharge from hospital. Mrs R mentioned she wants her own place. Mrs R was asked do you think you could manage living in your own place. Mrs R reported she would try to manage. Whilst speaking to Mrs R she was able to repeat words as I was talking to her but when asked to summarise information she was unable to. I explained again to Mrs R that she was living in a nursing home prior to admission but they are unable to accommodate her needs so we need to find somewhere else for her to live. I asked her if she could summarise this information but she was unable to and proceeded to talk about getting her own place.
Do you consider the person able to **retain** the information relevant to the decision? The question of how long a person need retain information will vary as they need only remember salient information long enough to make an effective decision.	☐ Yes ☒ No **Evidence**: E.g. the questions you asked and the responses given I explained a second time to Mrs R that prior to admission she was living in a care home called Chorlton Place but they are unable to accommodate needs so need to look for somewhere else to live. I asked her to summarise this information Mrs R reported we were talking about trying to get a place of her own. Mrs R is unable to retain information even for short periods of time.
Do you consider the person able to **use or weigh up** the information as part of the	☐ Yes ☒ No **Evidence**: E.g. the questions you asked and the responses given

decision making process?	See previous sections- understand and retain.
Do you consider the person able to communicate their decision?	☒ Yes ☐ No **Evidence: E.g. the questions you asked and the responses given** Yes, Mrs R can verbalise her decision

If you have answered yes to all of the questions in section 6 then the person is considered to have capacity about this specific decision at this time.

If you have answered no to any of the questions in section 6 then the person does not have the capacity to make this specific decision at this time.

The influence of any factors identified in section 5 (additional factors) should also be considered as part of your conclusion.

Section 7: Conclusion (please tick ONE)

I consider that the person **has** the capacity to make the decision. ☐
* You should be able to show that, on the balance of probabilities, that the person has capacity.

The decision that the person has made is recorded below:

I consider that the person **does not** have the capacity to make the decision. ☒
* You should be able to show that, on the balance of probabilities, that the person lacks capacity.

A best interest's decision must now be made and the appropriate documentation completed.

I consider that it is **appropriate to delay this assessment** until such time that the person is better able to demonstrate their capacity. ☐

Explain your reason(s) below:

For on-going decisions it will usually be important to review the person's capacity given that capacity is rarely static and can improve or decline.
Where this applies, please indicate when the assessment should be reviewed below:

This assessment is valid for the decision indicated at the time of completion.

Signature of assessor: Laura Dunn

Tom Curtis (HCPC Number PH60532)

Based at: Ward 2, Trafford General Hospital. Date: 02/12/16

Contact phone number: 0161 746 2183 Email address:

MENTAL CAPACITY SPECTRUM IN MEDICAL PRACTICE

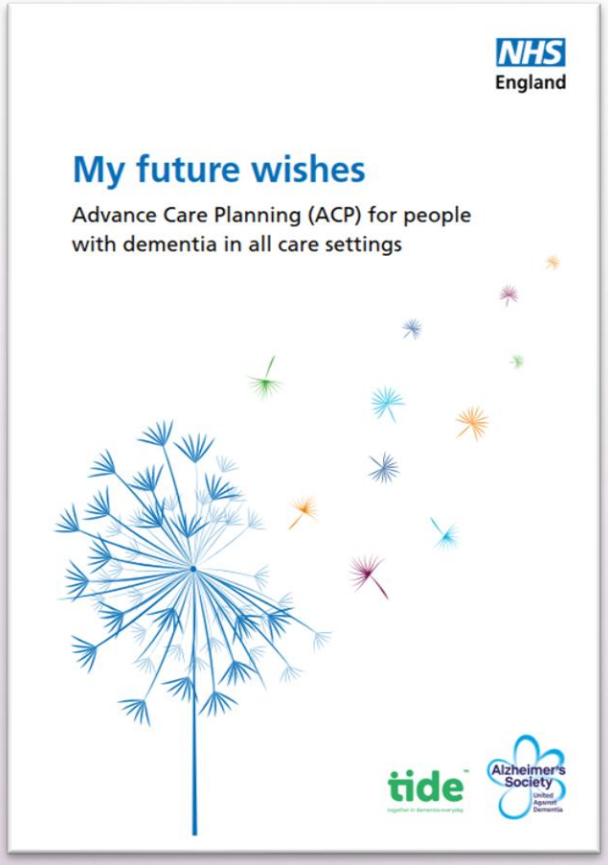
Full Capacity

UNSURE ?

NO Capacity

However, there is NO "Mental Capacity Act" in Taiwan...

MY FUTURE WISHES – ACP FOR DEMENTIA



Initiate 啟動

- Early ACP Conversations
- Around the time of dementia diagnosis (輕度)

Assess 評估

- Progressing ACP Conversations
- Increase in care needs (中度)

Check 檢視

- Later ACP Conversations
- Advanced Dementia, Capacity and End of Life (重度)

Taiwan Patient Autonomy Act

Background

- By the end of 2015, Taiwan has become the first Asian country which has the Patient Autonomy Act (PAA) legislation.
- The right of refusal of Life-Sustaining Treatment: Patient can use Advance decision (AD)to express their wish to accept or refuse certain kind of medical treatments when diagnosed with the specific clinical condition.

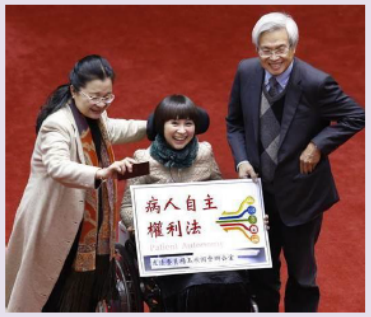
Patient Self-Determination Act Passes Third Reading

by ***HFT secretariat***

The Legislature Yuan of Taiwan has passed the Patient Self-Determination Act (PSDA) on December 18, 2015. This act allows patients to have a say in their medical care at the end of life. The Ministry of Health and Welfare indicates that the act is the first patient self-determination act published in statutory form and will begin to take effect three years later.

The purpose of PSDA is to re-emphasize the importance of patients' rights when it comes to medical decision making, especially when it is a matter of life or death. Patients can make their own Advance Directive via Advance Care Planning by stating whether they wish to accept or refuse any kind of medical treatments when diagnosed with the following conditions: being terminally-ill, in a coma or persistent vegetative state, or with advanced dementia or incurable diseases that include unbearable pain.

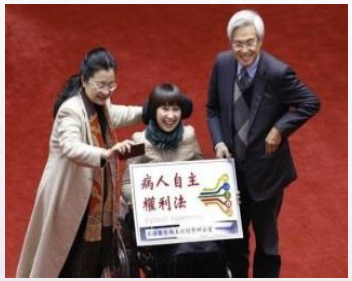
The highlight of PSDA is it gives Advance Directive a legally binding nature, which occurs when patients receive Advance Care Planning consultation provided by approved medical institutions. The result is the patients' own Advance Directive, which then needs to be notarized or witnessed by two fully capable adults, stamped by the institution, and be registered in the National Health Insurance system. Additionally, two specialist physicians are required to confirm if patients meet the five definitions stated in the act.



In order to minimize the skepticism of the medical staff, immunity is introduced to this act. That means medical institutions and physicians are freed from criminal liability when they do not completely fulfill the patients' Advance Directive based on the staff's own judgment or willingness; or when they perform according to the patients' Advance Directive to suspend, remove or refuse life sustaining treatments. When it comes to the

* Resource from: Yi-Ling Yeh, En-Tzu Tien, Shou-Fu Huang (Academy of Humanities and Innovation).

THE EFFORTS OF TAIPEI CITY HOSPITAL ON PROMOTING THE PATIENT AUTONOMY ACT 2016-2018



Bill Passed	ACP Pilot Program	Nationwide ACP Program	Sub-law	Education
Dec.18. 2015 Legislator Yu-Xing Yang proposed this bill, Patient Autonomy Act bill passed by the Legislative Yuan! **Jan.06.2016** The Act will be effective three years after its promulgated by the President.	**2016** Taipei City Hospital was entrusted by the Ministry of Health and Welfare to implement the ACP Pilot Project。	**2017** The superintendent of Taipei City Hospital lead the other six hospitals to implement the ACP Pilot Project.	**2017(Jun.-Dec.)** Invite experts from different area and gather opinions from the pilot project to write the draft of sub-law.	**2018-present** Develop the training program for ACP professionals , including legal knowledge of PAA, communication, medical knowledge and Clinical ethics .

* Resource from: Yi-Ling Yeh, En-Tzu Tien, Shou-Fu Huang (Academy of Humanities and Innovation).

The Implementation of Patient Autonomy Act

WHO → **HOW** → **WHAT**

◆Individual

-Persons with full disposing capacity

-without

◆Advance Care Planning

-The process of communication between the patient and medical service providers, relatives, and other related parties

- The Life-Sustaining Treatments(LST)
- Artificial Nutrition and Hydration(ANH)

◆Advance Decision

-A prior written and signed statement expressing the willingness.

-Accept or refuse LST, ANH, or other types of medical care due to specific clinical conditions.

Two Physicians confirm
+
Two meetings convened by the palliative care team.

5 Clinical Conditions:

- **Terminal illness**
- **Irreversible coma**
- **Permanent vegetative state.**
- Severe dementia.
- Other incurable disease declared by the central competent authority

* Resource from: Yi-Ling Yeh, En-Tzu Tien, Shou-Fu Huang (Academy of Humanities and Innovation).

Various booklet/brochure for the program

Staff

Participants

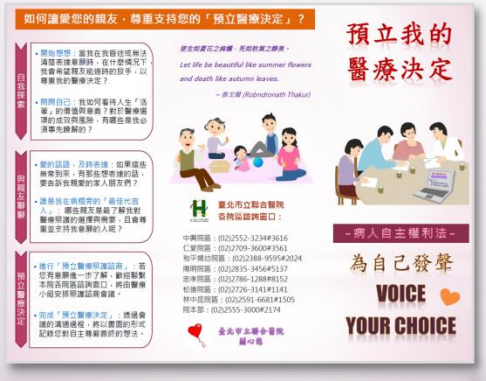
Training

Pre-contemplation Contemplation

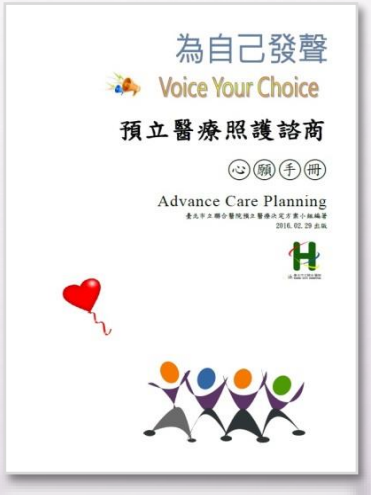
Preparation

Action

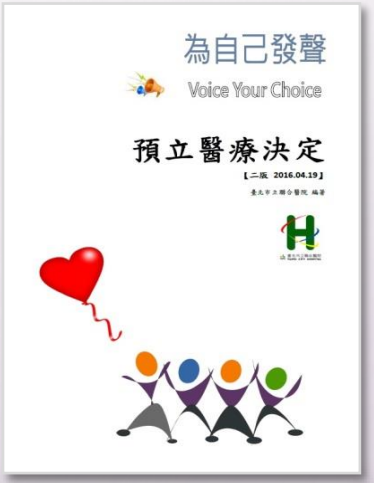
Standard of operation
(For ACP team)



Leaflet
(For the public)



ACP Five Care Wishes Workbook



Advance Decision (AD)

* Resource from: Yi-Ling Yeh, En-Tzu Tien, Shou-Fu Huang (Academy of Humanities and Innovation).

WHEN TO ASSESS MENTAL CAPACITY(MC)

Explore individual's their values toward life and death

Y

People who are willing to participate in ACP

Y

Only assess those who might have a mental problem or mild cognitive impairment

Y

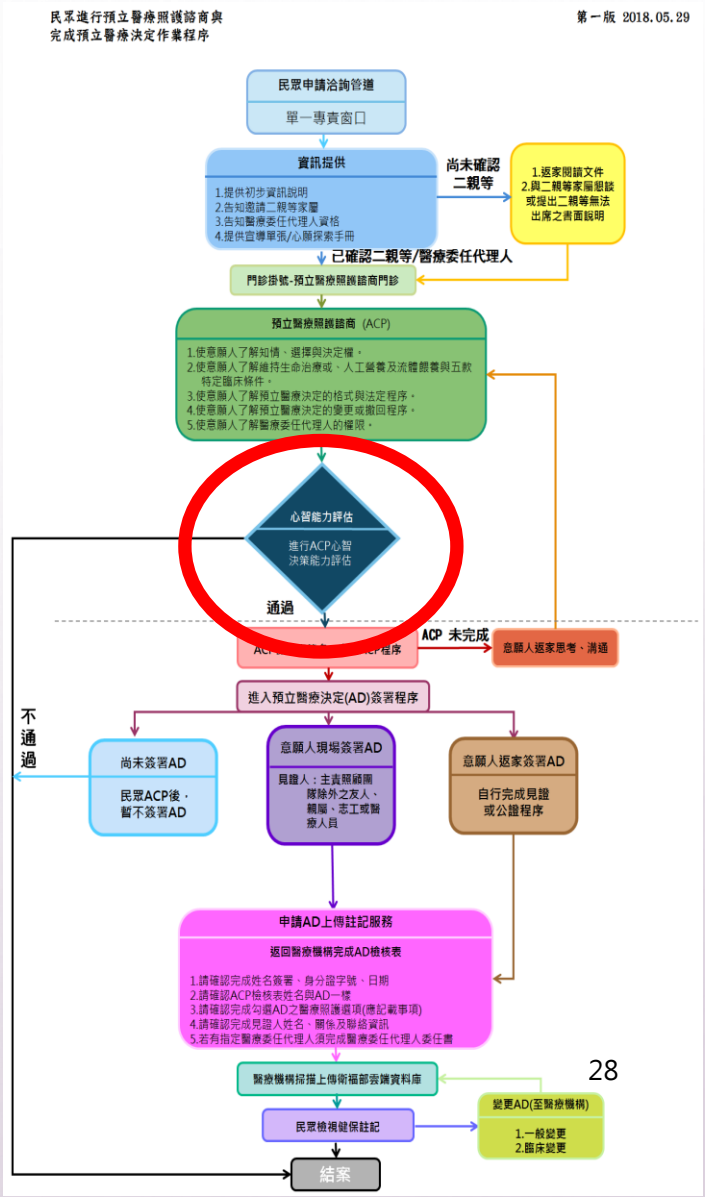
ACP Mental Capacity Assessment

So

◯ Pass → With capacity

△ Fail → No capacity

✕ Uncertain → Not sure



DEVELOPMENTAL PROCESS

- Experts meetings 8 times (2016.12.12 to 2018.02.06)
- Develop the MC script for the 3 scenarios
- Neurology clinic observation
- Recruit potential participants
- Undertake the MC screening format
- Amend 3 times for the scripts
- To localize the question sentences for Taiwanese

Expert Panel：

- Neurologist
- Psychiatrist
- Clinical psychologist
- Professor of psychology
- Professor of nursing
- Neurology nurse practitioner
- Case manager
- Medical social worker

Develop the Pilot Project to explore the indicators for MC of ACP in Taiwan

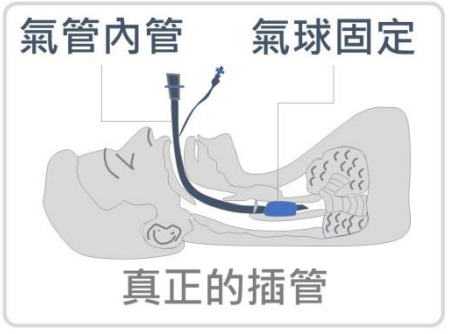
Scope of the project

Goal	◆ Screen the MC regarding to ACP and AD
Method	◆ Use the Five Statutory Principles and Four elements (understanding, retain, weigh-up, communicate) of MCA 2005 ◆ Preliminary script to test the 4 elements ◆ Develop 3 scenarios of life-sustaining treatment (LST) and artificial nutrition and hydration (ANH).
Participant	◆ CDR 0, 0.5 and 1 ◆ 5 participants (CDR=0 x1, CDR=0.5 x3, CDR=1 x1) ◆ About 30 minutes per person
Interviewer	◆ Nurse Practitioner for 25 years working experiences ◆ Medical Social Worker for 9 years experiences

DEVELOP LST PREFERENCE SCRIPT

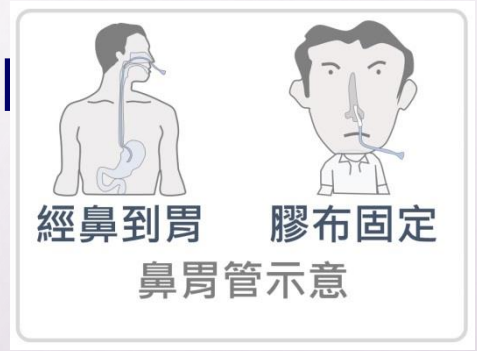
- SCENARIO1：ENDOTRACHEAL INTUBAT

  情境一：氣管內插管



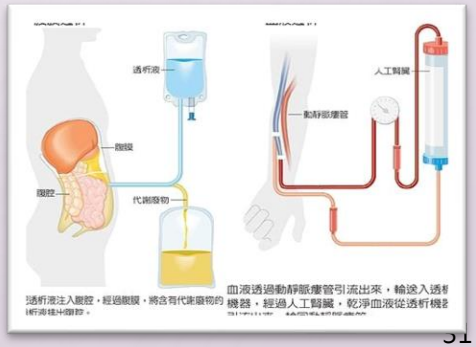
- SCENARIO 2：NASOGASTRIC TUBE FEEI

  情境二：鼻胃管餵食



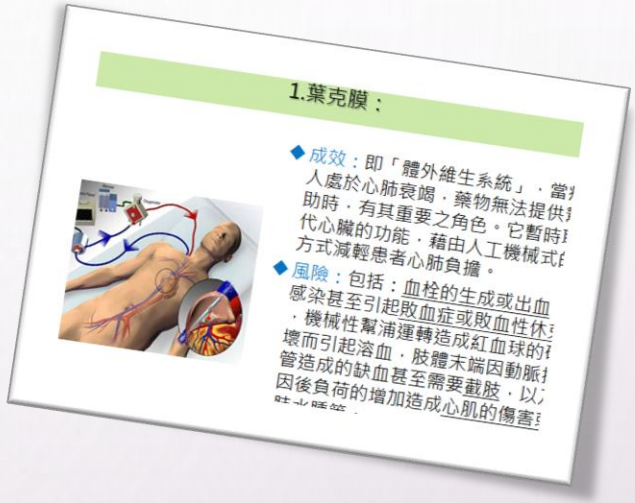
- SCENARIO 3：KIDNEY DIALYSIS

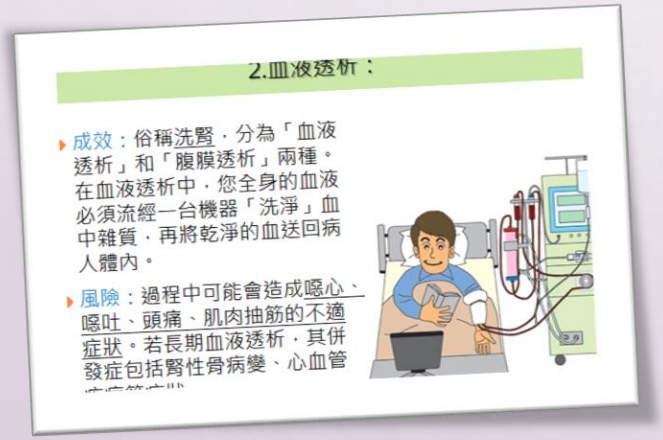
  情境三：洗腎

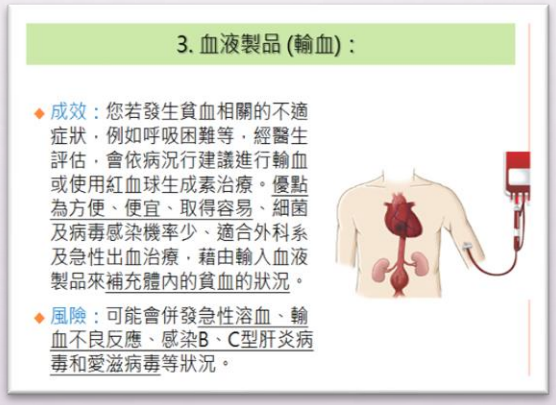


Decision Aids：

1. VISUAL TEACHING AIDS





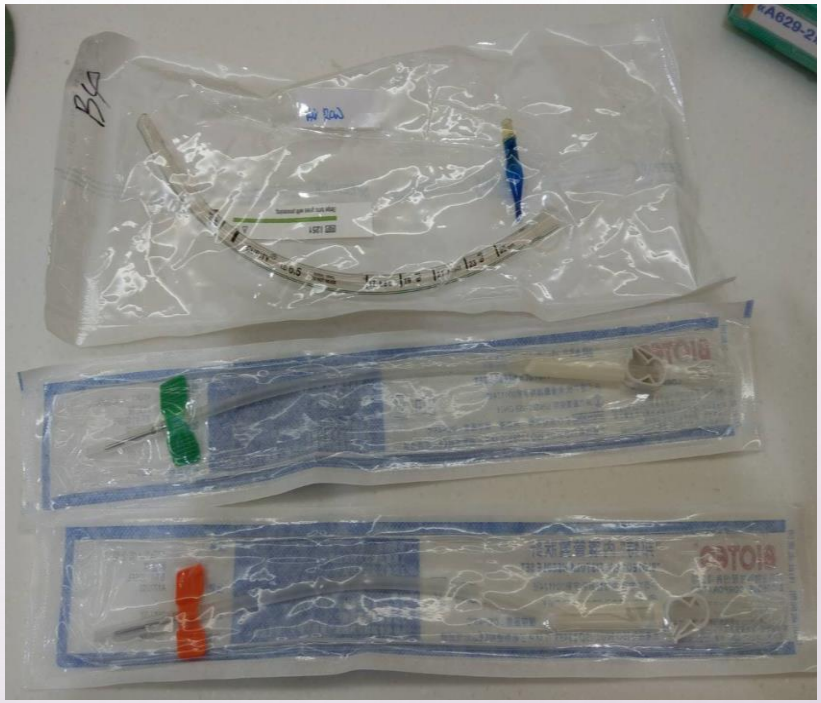


Decision Aids :

2. PHYSICAL TEACHING AIDS

NASOGASTRIC TUBE

SIMULATION DOLL



ENDOTRACHEAL TUBE

DIALYSIS NEEDLES

Decision Aids：

3. VIDEO TEACHING AIDS

- GUIDE TO FEEDING OPTIONS FOR PATIENTS WITH LATE-STAGE DEMENTIA – SHARED DECISION MAKING
- HTTPS://YOUTU.BE/CGASMXHR_MI

GUIDE TO FEEDING OPTIONS FOR PATIENTS WITH LATE-STAGE DEMENTIA

Test MCA in ACP-
SCREENING THE 3 LST PREFERENCES

FINDINGS-1

- THE FEEDBACK AND OPINIONS FROM EXPERT PANELS ARE "DIVERSE"
  - FOR EXAMPLE: PARTICIPANT NO.1

MCA 4 Elements	◯-Pass	△-Uncertain	✕-Fail
A. Understanding	9	0	0
B. Retain	2	7	0
C. Weigh-up	6	3	0
D. Communication	6	2	1

- FOUR ELEMENTS:
  - UNDERSTANDING & WEIGH: EASY TO ASSESS
  - RETAIN & COMMUNICATION: DIFFICULT TO

FINDINGS-2

- POTENTIAL EXTERNAL INFLUENCE FACTORS:
  - ASSESSMENT ENVIRONMENT (OTHER NOISES, PEOPLE, SEATS…)
  - DURATION AND TIME (TOO LONG)
  - FAMILY MEMBERS (ASSISTANCE OR DISTURBANCE)
- POTENTIAL INTERNAL INFLUENCE FACTORS:
  - CONCENTRATION
  - LANGUAGE
  - SOCIAL ECONOMIC STATUS
  - EDUCATION LEVEL

FINDINGS-3

- FORGET ABOUT THEIR "DIAGNOSIS" WHILE ASSESSING
- EVEN THOUGH THE PATIENT HAS MINOR IMPAIRMENT, THEY STILL CAN EXPRESS THEIR LIFE-AND-DEATH VALUES AND WISHES CLEARLY.
- IF THE PATIENT ANSWER SIMILAR QUESTIONS REPETITIVELY MANY TIMES, WE CAN CLAIM THAT HE/SHE CAN RETAIN THE INFORMATION.
- ACP MEMBERS NEED TO SAFEGUARD THE PATIENT' S AUTONOMY IN THE ACP CONSULTATION PROCESS.
- MORE TEACHING AIDS NEED TO BE DEVELOPED

FINGINS-4

- THE MAJOR DIFFERENCE BETWEEN MC IN ACP AND CLINIC PSYCHOLOGICAL ASSESSMENT IS:

MC in ACP：

◎ Purpose: help & inform patients to make medical decision

◎ Think highly of interview relationship

◎ More flexible and interactive

Clinic psychological assessment：

◎ Purpose: Examine & diagnose mental capacity

◎ Emphasize the consistency of the clinical tools

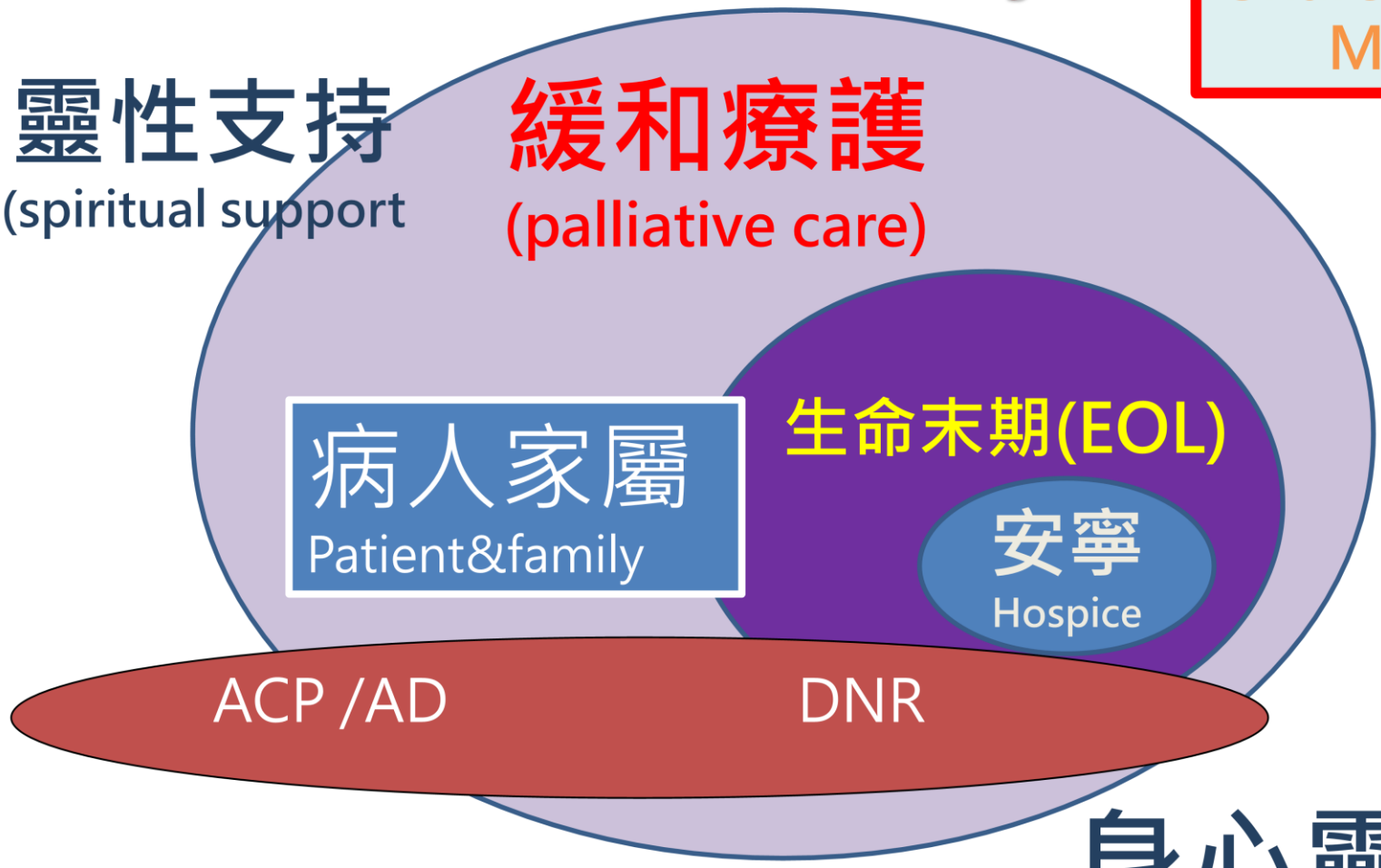
◎ More standardized and objective

FUTURE SUGGESTIONS

- DO NOT USE MC ASSESSMENT SCREENING TOOL TO EXCLUDE IMPAIRED PATIENTS :
  - LESS THAN 10 MINS TO DECIDE WHETHER THE PATIENT CAN PARTICIPATE ACP OR NOT
- INCORPORATE MC ASSESSMENT INTO ACP PROCESS:
  - USE SAMPLE QUESTIONS AND SAMPLE RESPONSES
  - GIVE SUGGESTED SCORING (YES, NO, UNSURE)
- DEVELOP MC ASSESSMENT INTO TRAINING COURSE:
  - KNOWLEDGE ABOUT MENTAL CAPACITY ACT 2005 IN THE UK
  - LEARN HOW TO USE SAMPLE QUESTIONS TO ASSESS PATIENT' S MC
- IMPLEMENT BY ACP MEMBERS AND SAFEGUARD PATIENT AUTONOMY:
  - ACP MEMBERS: DOCTOR, NURSE, SOCIAL WORKER OR PSYCHOLOGIST

預防受苦
Prevent from suffering

Share Decision Making



情緒及實務支持
Emotional & instrumental support

身心靈社會
Bio-psyco-social

J.R. Curtis, Eur Respir J 2008; 32: 796–803

摘自黃勝堅總院長

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12. https://www.scie.org.uk/mca/introduction
13. https://www.advancedassessments.co.uk/Mental-Capacity-Assessment/

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1. The Superintendent of Taipei city hospital , **Sheng-Jean Huang**.
2. Department of Social Work：
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3. Academy of Humanities and Innovation：**Yi-Ling, Yeh, Shou-Fu, Huang.**

THANK YOU FOR YOUR ATTENTION!

ANY QUESTIONS?