

# Capacity Evaluations and Community Care: What's Really Going On?

Presented by:



**Susan Hagar**  
RN Prescriber, BCPA  
CEO & Owner of Nurse On Board



**Gigi van den Hoef**  
RN Prescriber, MHS, BSc, CCRP  
Executive Director- CASE RNs

Independent Consultant

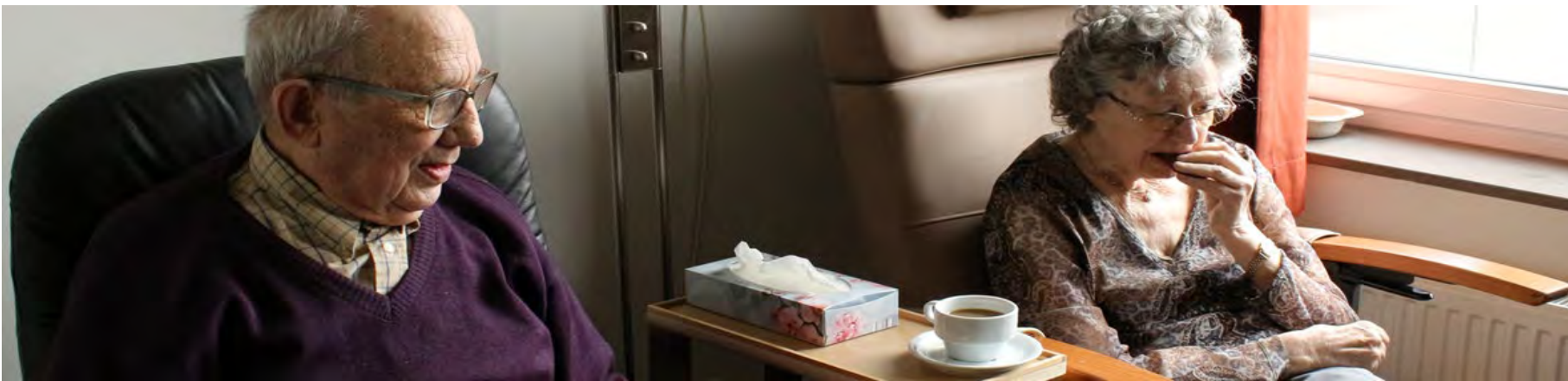


# Topics for Today

- Do you work with Substitute Decision Makers (SDMs)?
- What are common situations impacting service providers and SDMs in the private care and retirement home industries?
- When should service providers and SDMs restrict a client's autonomy?

# Autonomy

In the context of personal care, autonomy refers to a person's capacity to make independent decisions and take actions related to their own well-being and health, without undue influence or control from others. It encompasses the freedom to choose, the ability to act intentionally, and the responsibility to manage one's own health and self-care.



# Autonomy: When To Be Restricted

- Substitute Decisions Act, Health Care Consent Act
- Take instructions from a SDM if/when/where incapacity is determined
- Support autonomy in domains of well-being where capable
- Do not restrict autonomy when not required, unless concerns for safety and security ie. choose your battles



# Role of a Registered Nurse in Capacity Evaluation

- Assessment, holistic evaluation, and education are key
- Ministry Capacity Assessors vary by province, and designation
- Nurses must follow professional standards of practice per college registration guidelines ie. Evaluator
- Some nurses trained in MoCA , some use MMSE
- RNs are well positioned to support Capacity Clinic and other professionals with capacity evaluation, guided by medical knowledge and nursing expertise



# Capacity Now



- Historically been Focusing on Wills and what happens upon death
- No spotlight on how to protect and uphold a vulnerable person's autonomy while they are alive
- “Ontario treats Capacity as 1 or 0, but in reality, people are able to make specific decisions about specific tasks while incapable of making others.”

(6 domains for POA Personal Care- healthcare, clothing, hygiene, nutrition, safety, shelter)

# The Problem

- Incapacity complexities in community care and retirement home context
- No clear process and procedures when addressing situations of incapacity
- Lack of communication, awareness, guidance, and information surrounding incapacity
- Lack of incapacity literacy, and the fiduciary duties of the SDM and the service provider
- Ministry capacity assessments lack a standardized tool, are expensive, and often not timely
- “Ignorance is bliss” ... until it isn’t... and ignorance is no defence when professional accountability is in question



# Duties of attorneys for personal care



- to act diligently and in good faith;
- to try to foster the person's independence, as much as possible;
- to choose the least restrictive and intrusive course of action that is available and appropriate;
- to explain the attorney's powers and duties to the incapable person;
- to encourage the person to participate, to the best of their abilities, in personal care decisions about them;
- to seek to foster regular personal contact between the incapable person and supportive family members and friends; and
- to consult from time to time with supportive family and friends who provide personal care for the person.



# Truly Meeting the Needs



- Cultural factors
- Social factors
- Personal factors
- Is the “right” SDM in place to manage the living situation?
- Has Advanced Care Planning been done?
- How does a SDM determine where a person lives?
- Isn't one's own home the best place to live, when feasible?

# We Need to Know Capacity

College of Nurses of Ontario-

“Assessing the client’s capacity to make a treatment decision is the responsibility of the health care practitioner proposing treatment”

How is that capacity assessed?

How do you assess capacity?

# Are Personal Care Needs Being Met

- Quality of life must be considered when looking at retirement homes
- Moving someone into a retirement home will not prevent the “risks” of daily life, but may negatively impact quality of life, so:
  - Does this move truly reduce risk for the individual?
  - Does this move truly reduce risk for the SDM?
  - Is there another option or plan to explore?
  - Is the SDM fearful and looking for peace of mind through care provision and supervision, or is the SDM looking for control of money, property, and social life?
- Can personal care needs be approached with equanimity?

# Plan for the Complexity of Decision Making



- Solutions start with conversations; capacity is a touchy subject!
- Knowledge is power- become educated and disseminate incapacity literature
- Consider inherent liability for service providers taking instructions;  
access resources and tools
- Evaluate capacity at baseline, especially where uncertainty and vulnerability exist
- Re-evaluate capacity in the event of a neurological event, recent hospitalization, grief, medication change, new behaviour, conflict around capacity between DM and SDM, etc.



# How to Avoid or Handle these Situations

- Standardize service provision to require POA document evaluation +/- capacity evaluation, which may include:
  - *Validate You* for SDM verification
  - *POA Registry*- register & validate POA document
  - Use *Decision Tracker* for standardized capacity evaluation
  - *Assess You* available for support with finding of incapacity
- Remain alert to the misguided, uninformed agenda versus the sinister agenda of a SDM; abuse can be sophisticated!

# Summary

- We are all working with Substitute Decision Makers
- Vulnerable seniors/others are at risk for “adverse” decisions by their Substitute Decision Maker(s)
- Restricting autonomy is the last thing we want to do and/or support
- Be an advocate for the vulnerable and be a responsible service provider; become educated and use reliable tools

# Thank You!



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Executive Director- CASE RNs

**Let's keep the conversation going!**

[info@curacompliance.ca](mailto:info@curacompliance.ca)

[info@epcc.ca](mailto:info@epcc.ca)

[info@nurseonboardottawa.ca](mailto:info@nurseonboardottawa.ca)

## Collective Mission –

Together with CURA Compliance and the Estate Planning Council of Canada, we aim to:

**Improve awareness of fraud and misuse** of substitute decision making documents through workshops across Canada

-and-

**Improve the Validation and Activation Procedures** of substitute decision making related documents by connecting stakeholders within the legal, financial, housing, health and assessment sectors with proactive and reactive resources.