

# Capacity and Adult Protection: A Shared Responsibility

**February 20, 2019**

# What is Capacity?

- An adult is able to understand information and decisions concerning his/her health care, physical, emotional, psychological, financial, legal, residential or social needs.
- An adult is able to appreciate the reasonable foreseeable consequences of a decision or the lack of a decision.
- All adults are presumed to have full **capacity** unless proven otherwise

## Myth # 1

“If a person lacks capacity in one area then they lack capacity in all areas.”



# Capacity vs. Competency

There has been a philosophical shift:

- Competency: global
- Capacity: decision specific
- Challenge: respect the remaining areas where adults still have capacity

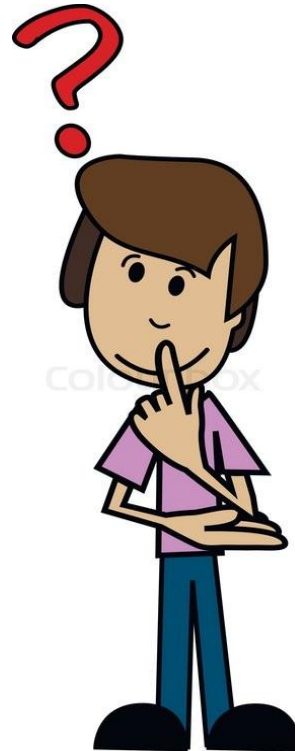
# Decision Specific Capacity

Capacity is specific to the individual decision at hand:

- Ability to manage finances
- Ability to provide for personal care
- Ability to make health related decisions
  
- E.G.: A person may have the capacity to manage personal care but not manage finances.

## Myth # 2

“Capacity does not change.”



# Capacity on a Continuum



More  
Capable



Less  
Capable

# What Impacts Decision Making?

The following may inform capacity but **does not** determine capacity:

- Temporary Illness (UTI)
- Alcohol/Recreational Drug Use
- Lack of Sleep
- Trauma/Traumatic Brain Injury
- Time of Day
- Dementia

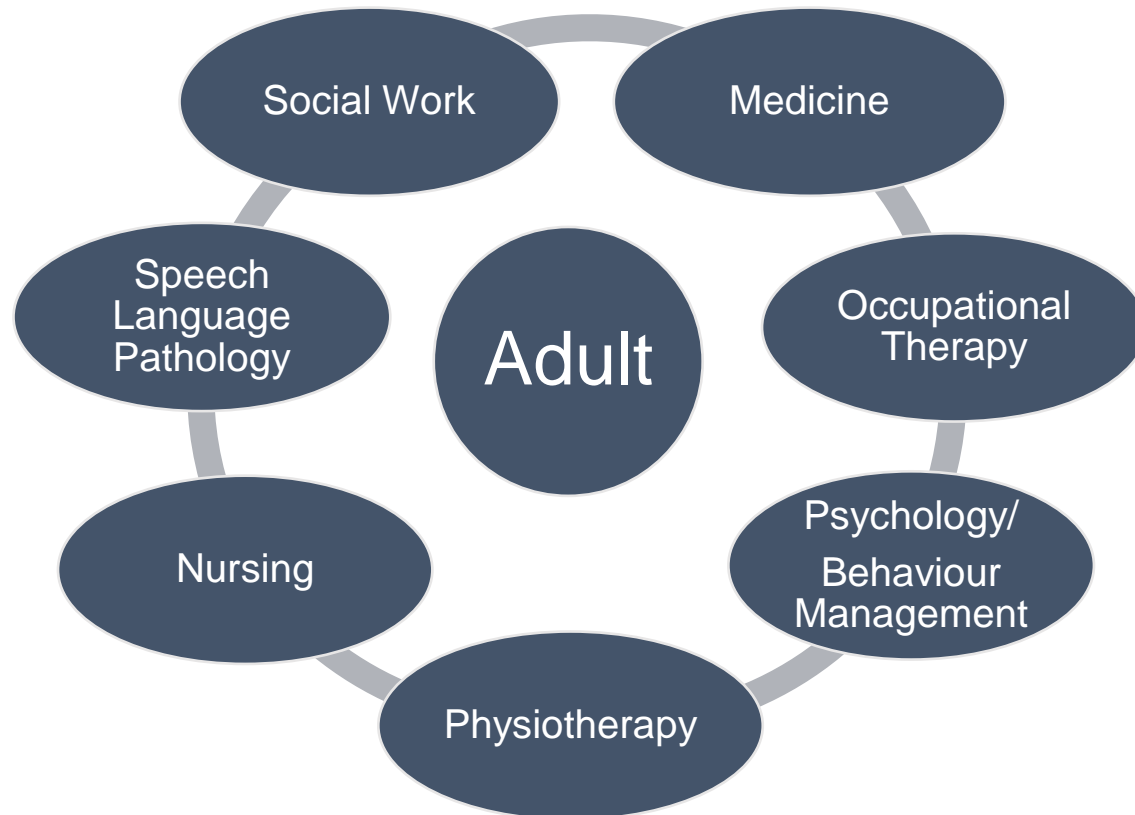


## Myth # 3

“Only Doctors Assess Capacity.”

# Person Centered Care

The best capacity assessment is a thorough one involving the adult and a **team of professionals**.



# How Do We Assess Capacity under APA?

- Interdisciplinary Team Process
- Coordinated by Social Worker
- Decision Specific Capacity Assessments
- Develop capacity question(s)
- Each professional completes an individual assessment
- Need to reach consensus

# Adult Protection Act

(Effective June 30, 2014)

- The intent of the Act: To protect adult residents of Newfoundland and Labrador(NL) who are at risk of abuse and neglect, and who do not understand or appreciate that risk.
- Is the legislative authority for delivery of services to adults in need of protective intervention.
- Legal obligation to report: **1-855-376-4957** regardless of where the adult resides.

# Adult Protection Act

- The Act is operationalized through the four regional health authorities.
- The Department of Children, Seniors, and Social Development (CSSD) is responsible for administration of the Act.
- There is a Provincial Director of Adult Protection and four Regional Directors of Adult Protection.
- An adult protection report can be received by a social worker, coordinator, manager or director(RHAs) or peace officer (RCMP,RNC).

# Adult Protection Act

- Report is accepted or screened out.
- Evaluation is completed, if report is accepted.
- Investigation is initiated if risk of abuse/neglect is not mitigated and adult **appears to lack capacity** ( occurs in less than 10% of cases)
- An application to Court for Declaration is made if adult is determined to **lack capacity** in the area(s) where risk is evident and service/supports cannot mitigate the risk. ( last resort)

# Adult Protection Act

This Act applies to all residents of NL meeting the criteria of an adult in need of protective intervention, regardless of living arrangement.

- **Adult in Need of Protective Intervention:** lacks capacity and
  - a) is incapable of caring for himself/herself or refuses, delays, or is unable to make provision for adequate care and attention for himself/herself; or
  - b) is abused or neglected.
  
- **Living arrangements:** include, but are not limited to, a private residence, personal care home, alternate family care home, hospital or long term care facility.

# Case Study

## Case Study – Samuel

Samuel is a 77 year old male who was recently hospitalized following complications from diabetes, including dehydration.

(Please refer to attachment for case details).



# Questions/Comments?

