

Table 1. Legally Relevant Criteria for Decision-Making Capacity and Approaches to Assessment of the Patient.

| Criterion | Physician's Assessment | | Comments |
|---|--|--|--|
| | Patient's Task | Approach | |
| Communicate a choice | Clearly indicate preferred treatment option | Ask patient to indicate a treatment choice | Frequent reversals of choice because of psychiatric or neurologic conditions may indicate lack of capacity |
| Understand the relevant information | Grasp the fundamental meaning of information communicated by physician | Encourage patient to paraphrase discussed information regarding medical condition and treatment | Information to be understood includes nature of patient's condition, nature and purpose of proposed treatment, possible benefits and risks of that treatment, and alternative approaches (including no treatment) and their benefits and risks |
| Appreciate the situation and its consequences | Acknowledge medical condition and likely consequences of treatment options | Ask patient to describe views of medical condition, proposed treatment, and likely outcomes | Courts have recognized that patients who do not acknowledge their illnesses (often referred to as "lack of insight") cannot make valid decisions about treatment |
| Reason about treatment options | Engage in a rational process of manipulating the relevant information | Ask patient to compare treatment options and consequences and to offer reasons for selection of option | Delusions or pathologic levels of distortion or denial are the most common causes of impairment |

* Questions are adapted from Grisso and Appelbaum.³¹ Patients' responses to these questions need not be verbal.