



Alberta College of  
Speech-Language Pathologists  
and Audiologists

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Position Statement:

# The Speech-Language Pathologist's Role in Supporting Capacity Assessments for Adults with Communication Disorders

February 2024

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## The Speech-Language Pathologist's Role in Supporting Capacity Assessments for Adults with Communication Disorders

*Position Statement: Sets out the official position or stand of “the College” on an issue or matter that is significant to the professions of speech-language pathology and/or audiology, and to outside agencies or groups.*

### Position

The presence of a communication disorder may negatively affect an individual's ability to demonstrate decision-making capacity. While SLPs are not designated capacity assessors under Alberta law, it is ACSLPA's position that SLPs have an important role in supporting individuals with suspected or known communication disorders undergoing capacity assessments. SLP involvement during capacity assessments supports fairness and accuracy in the assessment of individuals' decision-making capacity and promotes patient autonomy in decision-making.

### The Legislative Background

Capacity, with respect to decision-making, is defined by the *Adult Guardianship and Trusteeship Act* (AGTA) of Alberta (2008) as “the ability to understand the information that is relevant to the decision and to appreciate the reasonably foreseeable consequences of a decision and a failure to make a decision”. Capacity is considered on a continuum: a person may have the capacity to make some decisions and not others, which may vary according to the complexity of the decision. Capacity for decision making may vary across time, and may be confounded by vision or hearing difficulties, other patient comorbidities, and the availability of social support (Kapp, 2018; Pachet et al., 2012)

Under the AGTA (2008), an individual is presumed to have the capacity to make decisions until proven otherwise. When the need for a capacity assessment, i.e., an assessment of an adult's capacity to make decisions regarding personal or financial matters has been established, the AGTA authorizes capacity assessors to determine whether a co-decision maker, guardian, or trustee should be appointed for an adult (AGTA, 2008). Capacity assessments also aid the Court in deciding whether an enduring power of attorney or personal directive should be enacted.

The Regulation of the AGTA (2009) designates those health professionals who are qualified to conduct capacity assessments. While all physicians and psychologists are designated capacity assessors, the Minister may designate other health care professionals as capacity assessors. Only registered nurses, registered psychiatric and mental deficiency nurses, occupational therapists and social workers are eligible for designation by the Minister. **Existing legislation in Alberta does not allow for SLPs to be designated as capacity assessors. SLPs therefore cannot, under the law, conduct capacity assessments nor make formal or final determinations about an individual's ability to make decisions regarding their personal or financial interests.**

### The Need for SLP Support During Capacity Assessment

Speech and language impairments may occur in the absence of, but may also coincide with, cognitive impairment (Brady Wagner, 2018). Although a communication disorder does not necessarily hinder a person's ability to make decisions regarding their personal or financial well-being (Carling-Rowland et

al., 2014; Pachet et al., 2012), it may be a barrier to demonstrating decision-making capacity (Aldous et al., 2014; Brady Wagner 2018), placing the client at risk for loss of autonomy.

Capacity assessments depend heavily on communication. Clients must be able to demonstrate understanding and retention of information about a decision, including options related to the decision and reasonably foreseeable consequences of making or not making a decision; be able to communicate their preference (Government of Alberta, Office of the Public Guardian, 2008). Communication impairments may therefore mask an individual's capacity. Conversely, a lack of decision-making capacity may be masked by communication disorders (Kim et al., 2020). Published, formal tests of decisional capacity typically require proficiency in speech and language and are, therefore, problematic for many individuals with communication disorders (Carling-Rowland & Wahl, 2010; Ferguson et al., 2010).

According to the AGTA (2008), "an adult is entitled to communicate by any means that enables the adult to be understood, and the means by which an adult communicates is not relevant to a determination of whether the adult has the capacity to make a decision". Consequently, capacity assessments should include healthcare professionals who can understand and respond to the needs of people with communication disorders, providing necessary communication support (Jayes et al., 2021; Kim et al., 2020). As communication specialists, SLPs are uniquely placed to help minimize the barriers to, as well as the impact of, communication disorders that individuals may experience during capacity assessments. The involvement by SLPs in capacity assessments will increase the fairness of the process by ensuring individuals have the opportunity and means to understand and express themselves as fully as possible (Jayes et al., 2021; Suleman and Hopper, 2016). SLP involvement is particularly necessary as non-SLP healthcare professionals have been shown to have difficulties identifying and screening for communication difficulties (Jayes et al., 2021), and as subtle or mild communication disorders may go unidentified by other members of the health care team (Davis & Ross, 2003).

## Recommendations Regarding SLP Support During Capacity Assessment

As in any practice area, SLPs who participate in capacity assessments are ethically responsible for providing competent care to the clients whom they serve. ACSLPA's Code of Ethics states the obligation that regulated members "engage only in the provision of services that fall within their professional competence, considering their level of education, training and experience, access to professional supervision, and/or assistance from qualified colleagues".

SLPs should adopt an individualized approach to each client during capacity assessments (Jayes et al., 2021; Kapp, 2018; Kim et al., 2020). Involvement by SLPs may include, but is not limited to:

- Screening communication and hearing of adults is recommended prior to capacity assessment. If hearing screening is not possible, the SLP should document why this was the case, and should gather and share information about concerns related to the client's hearing with the assessment team.
- Referring individuals for assessment by an audiologist, as needed.
- Evaluating communication abilities using multiple methods of evaluation and assessing multiple modalities of communication when involved in capacity assessments.
- Identifying, implementing and/or recommending facilitative communication strategies, based on documented communication abilities.
- Facilitating capacity assessment by providing communication supports as required by the assessor and the client.
- Contributing to the assessment of cognitive impairment and function, as needed.
- Educating the public and other health care professionals about the impact of communication disorders on capacity assessments, and the link between cognition, decision-making capacity, and communication.

## References

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