



Capacity vs. Competency



“Capacity” and “competency” are terms that are often used interchangeably. However, under Iowa law and specifically within the context of an individual’s rights to make his/her own decisions, there is a very important difference between the two words.

An understanding of the difference between “capacity” and “competency” (as explained on this fact sheet) is essential to determine whether an individual’s consent is valid.

For additional information, contact the Office of the State Long-Term Care Ombudsman at 866.236.1430.

CAPACITY

Capacity is the ability to understand the nature and effect of one’s acts. Capacity is a fluid concept; an individual may have the requisite capacity in one moment and lack capacity in another. The determination to be made is whether an individual has the ability to understand the nature and effect of his/her acts in a specific moment of time.

The level of capacity needed to execute legal documents, such as a durable power of attorney, contract or will, differs upon the type of transaction, while the capacity to consent to a medical procedure is determined by the criteria of informed consent. Questions to ask include:

- Does the individual have the ability to understand the medical procedure and, specifically, understand a description of the procedure, including its risks, its benefits and its alternatives?
- Does the individual have the ability to voluntarily consent to the procedure?
- Does the individual have the ability to give consent because he/she is competent (meaning he/she does not have a guardian)?

COMPETENCY

Competency is a legal finding. Competency proceedings, including guardianship and conservatorship hearings, are conducted to allow the court to determine an individual’s mental capacity.

INCOMPETENCY

Incompetency is the lack of ability to discharge or understand either health care or financial management decisions. An individual is incompetent when declared by the court to be in need of a guardian or conservator. This determination is made only after the individual meets the proper “standards” under Iowa law:

GUARDIANSHIP STANDARD:

To have decision-making capacity that is so impaired that the person is unable to care for his/her own personal safety or to attend to or provide for necessities, such as food, shelter, clothing or medical care, without which physical injury or illness may occur. Iowa Code § 633.3(23)(a).

CONSERVATORSHIP STANDARD:

To have decision-making capacity that is so impaired that the person is unable to make, communicate or carry out important decisions concerning the individual’s financial affairs. Iowa Code § 633.3(23)(b).