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Ethical Decision-Making Aid for Patients with Diminished Capacity

Nicholas J. Kockler

Providence Center for Health Care Ethics

John Tuohey

Providence Center for Health Care Ethics

Marian O. Hodges

Providence Center for Health Care Ethics

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ETHICAL DECISION-MAKING AID FOR PATIENTS WITH DIMINISHED CAPACITY



REASON TO QUESTION PATIENT'S CAPACITY*

- Dementia
- Mental Illness
- Delirium / Encephalopathy
- Developmental Delay
- Other Cognitive Impairment



PATIENT EXPRESSES REFUSAL TO COOPERATE WITH CARE VERBALLY OR THROUGH BEHAVIOR



TREATMENT MEDICALLY INDICATED AND/OR PERMISSION GRANTED BY APPROPRIATE DECISION-MAKER

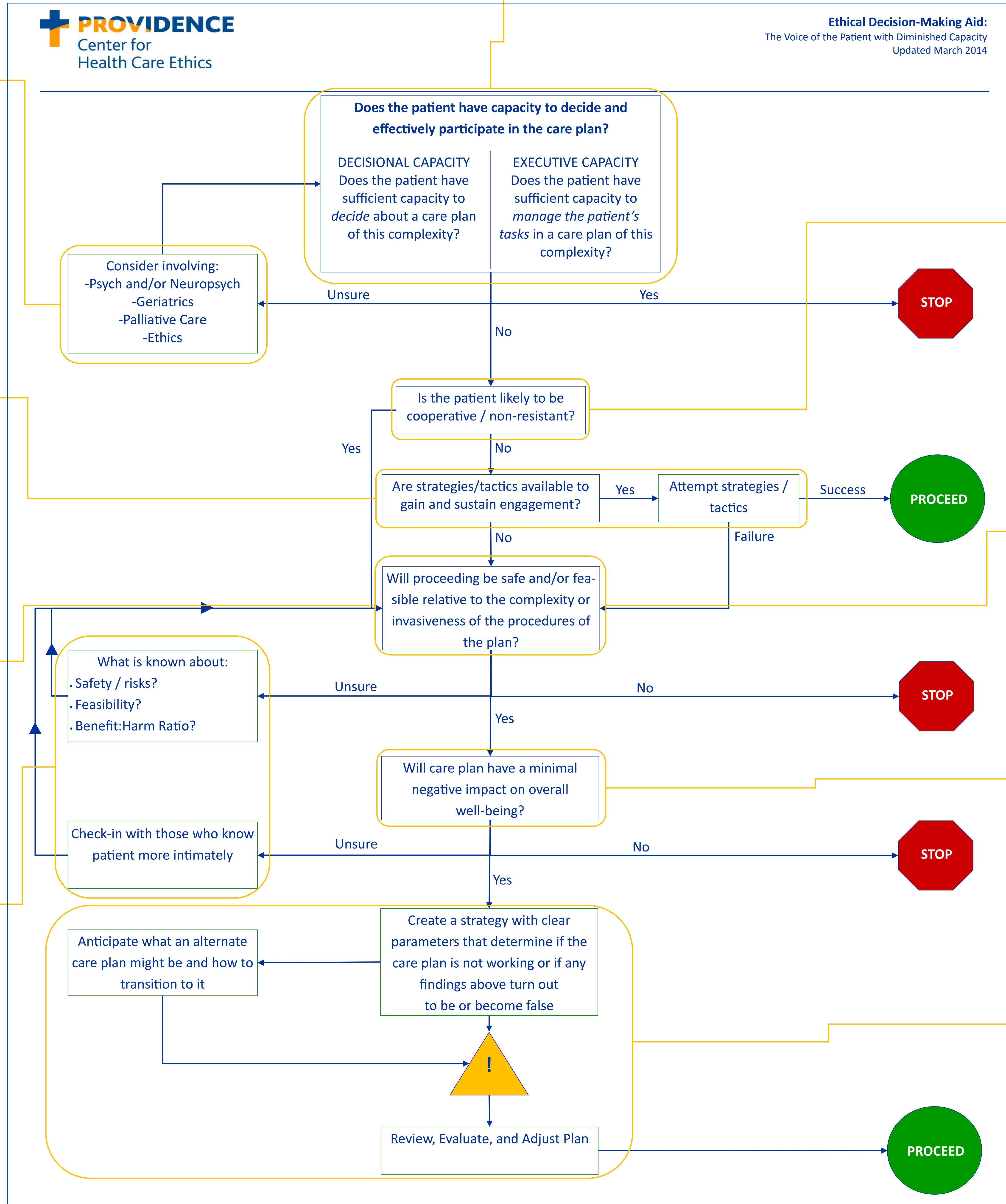
Ethical Insight #1:
DISTINGUISHING NATURE OF CAPACITY IN DECISION-MAKING & ENGAGING CARE
-Decisional capacity: Ability to decide to provide or refuse consent
-Executive capacity: Ability to manage the tasks for which the patient is responsible

Ethical Insight #2:
SOLICITING INPUT OF INTERDISCIPLINARY TEAM TO DETERMINE NATURE OF PATIENT'S CAPACITY

Ethical Insight #4:
RESPECTING PATIENT AUTONOMY:
1) Minimizing interference with autonomous living; and
2) Maximizing patient's ability to live autonomously.

Ethical Insight #6:
RECOGNIZING LIMITS OF BENEFICENCE:
Ensuring feasibility of care plan; no one is obligated to do the impossible.

Ethical Insight #8:
BEING OBJECTIVE BY NOT GENERALIZING FROM ANECDOTAL EXPERIENCE



Ethical Insight #3:
ACKNOWLEDGING EXPRESSION OF PATIENT'S WILL AS ETHICALLY RELEVANT WHETHER PASSIVELY RECEIVING OR ACTIVELY RESISTING CARE

Ethical Insight #5:
ACCOUNTING FOR NONMALEFICENCE:
Fulfilling duties to protect the patient *and* staff

Ethical Insight #7:
CONSIDERING SIGNIFICANCE OF CARE PLAN'S IMPACT ON PATIENT WELL-BEING AND THERAPEUTIC RELATIONSHIPS

Ethical Insight #9:
ANTICIPATING CLINICAL MILESTONES TO KNOW WHEN TO RE-EVALUATE THE CARE PLAN

Ethics Consultation Examples in which Decision Aid has been Helpful:

The developmentally delayed patient with diabetes, decubitus ulcer in rectal area, who needs diverting colostomy and subsequent surgical repair. **Should bowel diversion surgery and subsequent therapy proceed?**

The suicidal patient who has acute renal failure requiring dialysis and who adamantly refuses interventions. **Should the patient receive dialysis?**

The homeless, mentally ill, and demented patient who manages diabetes poorly and who has a life-threatening infection of his foot requiring amputation. **Should the patient receive amputation?**

The delusional patient who suffers aortic stenosis and refuses cardiac catheterization and whose spouse insists that everything be done. **Should the patient receive cardiac catheterization and subsequent therapy as indicated?**

The dementia patient with arthritic shoulder pain who is a candidate for elective surgical repair. **Should the patient receive elective surgery?**

The patient with alcohol-related dementia who is diagnosed with a treatable form of cancer for which chemotherapy is indicated and if treated has a good prognosis. **Should the patient receive chemotherapy?**

The dementia patient who suffers a stroke for whom prognosis is guarded yet who may benefit from a trial of tube feeding. **Should the patient receive tube feeding?**

The patient with cerebral palsy, mild cognitive impairment, and anxiety who needs mechanical respiratory support. **Should the patient receive BiPAP?**

* One author (JFT) presented an earlier version of this decision aid, which focused exclusively on patients with mental illness, during the *Fourth International Conference on Clinical Ethics Consultation* in Rijeka, Croatia, September 5, 2008. In addition, the work was invited for publication in the *Journal of Hospital Ethics*: John Tuohey and Jeffrey Young, "Ethical Considerations in the Risk-Benefit Analysis for Patients with Diminished Capacity," *Journal of Hospital Ethics*, Winter 2009, 1 (3): 20-23.