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Hong Kong Psychogeriatric Association Newsletter
香港老年精神科學會會訊

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MESSAGE FROM THE NEWSLETTER COMMITTEE

Decision-making ability of the elderly on his/her personal, healthcare and financial affairs is an emerging medico-legal issue in the field. In August 1999, the founding Chairperson of the Guardianship Board, Ms. Paula Scully wrote *"Guardianship for elderly patients with a mental handicap, disorder or dementia"* for the HKPGA newsletters. In March 2009, Dr. Victor Lui wrote *"Rethinking assessment of mental competence in clinical practice"* from both clinical and research perspective. Thereafter, HKPGA has organized a mental capacity workshop in 2011 and a specific conference cum workshop on the various mental capacities in 2015. In this issue of HKPGA newsletters, Dr. CL Lam provides an overview and remarks on a different mental capacity: financial affairs. The W.H.O.'s latest fact sheet on *"Mental Health and Older Adults"* will also be reviewed. Please do not miss the photos of the HKPGA Mid-year Scientific Meeting 2016. Lastly, you can make your submission via *info@hkpga.org* and visit *www.hkpga.org* for archives of the HKPGA newsletters.

The Era of Mental Capacity Assessment for Financial Affairs for the Older Adults in Hong Kong

Dr. LAM Chi Leung, Specialist in Psychiatry

Background

Not many of us are aware that the population life expectancy of Hong Kong has just passed Japan and many Western countries to be the top one across the world (*World Bank Data, 2014*). It is needless to say, the number and proportion of the elderly population have been increasing and will constitute up to 30% of the Hong Kong population by 2034 (*Census and Statistics Department, 2015*).

In spite of the fact that local elderly always require family, healthcare and social support, on the other hand, the population-based survey conducted by the Census and Statistics Department in mid-2008 revealed that 27% of the elderly in Hong Kong owned a flat and 3% of them had rented out a flat or shop. As the average price of a private domestic flat has been escalating in Hong Kong, if an elderly has an old flat and a little amount of saving, he/she has become a multi-millionaire as defined by his/her property. It is not surprising that the accumulated wealth of the upcoming cohorts of elderly e.g. the “baby-boomers” will be more substantial.

The Momentum

A majority of the elderly in Hong Kong seldom aware of the complications related to their financial affairs when something goes wrong. It may be related to the traditional filial values and lack of knowledge for the potential legal problems. In the first local community survey in 2013, it revealed that 55.4% of the local elderly had sought assistance from their family members in financial affairs because of poor health, feeling too cumbersome and mental incapacity. Only 2% of the local elderly had advanced financial planning and were using Enduring Power of Attorney (EPA, *Cap 501, Laws of Hong Kong*). It is important to know that EPA is done when an adult still has the required mental capacity. As a result, frontline professionals are sometimes challenged by the tied situations which involved either the lonely but wealthy elderly became mentally incapable to handle his/her financial affairs e.g. pay for the monthly fee of a residential home or there are on-going disputes among different family members with the risk of abusing the dependent elderly.

Capacity assessment: What?

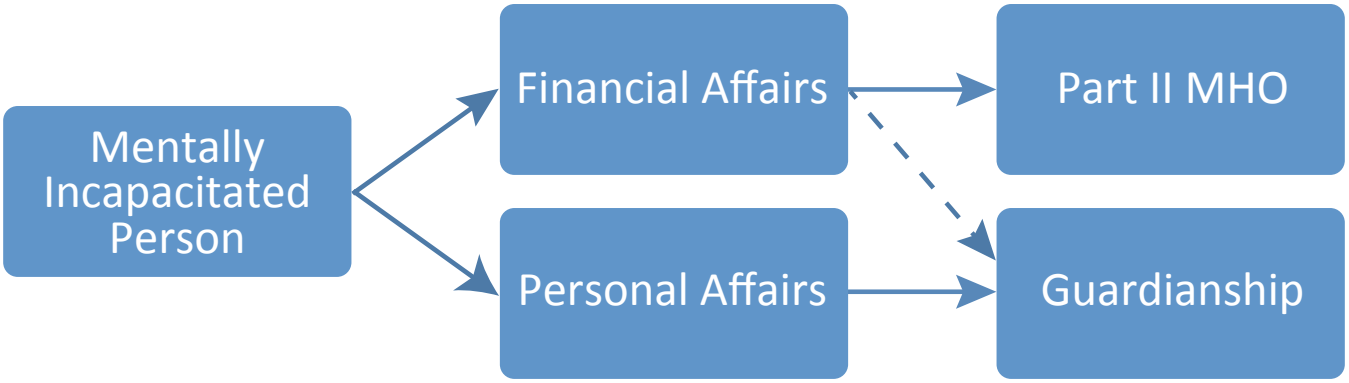
Capacity is the legal term used to describe the ability of a person for decision-making and may vary in different jurisdictions. Everyone is free to make his/her own choices and bare the consequences. Unless there is evidence to the contrary, an adult is presumed to have the capacity under common law. It reflects the fundamental legal (and ethical) principle of respecting autonomy of an adult. Different professionals such as lawyer, medical practitioner and social worker should have been observing this principle in their daily practices. Like many western jurisdictions, capacity is ultimately determined by the court of Hong Kong after considering all sort of evidence, especially on clinical information.

Capacity assessment: Why?

Aging itself is associated with many non-communicable diseases, include neurodegenerative diseases such as stroke and dementia. It is not uncommon that the elderly with subtle cognitive impairment or history of mental illness, in tandem with common risk factors such as progressive sensory loss, chronic medical problems, social

isolation and covert mood problems can become mentally incapable and vulnerable to be financially exploited. It is also because studies have shown that the capacity to handle one's financial affairs, i.e. financial capacity, is usually the first cognitive function to be affected in older adults.

In both public and private sector, there are more psychogeriatric consultations for legal proceedings, namely, application for Guardianship Order, Part II of the Mental Health Ordinance (MHO, *Cap 136, Laws of Hong Kong*), will and the EPA to handle one's financial affairs. It is in line with the fact that more than 70% of the Guardianship applications are for the elderly incapable of managing their financial affairs since the inception of the Hong Kong Guardianship Board every year. As a result, the Guardianship Board is promoting wider coverage of the EPA with the rationale of "prevention is always better than cure".



Pathway to help a MIP to make a legal application for his/her affairs

Capacity assessment: Who?

Like many western societies, a registered medical practitioner in Hong Kong has *de facto* authority to perform mental capacity assessment. In fact, the EPA in Hong Kong requires any medical practitioner to do the assessment and then be a witness on the EPA form (together with a lawyer). For the legal application (see the above diagram), the medical reports must be filed by at least one approved doctor under the Mental Health Ordinance (which is usually a psychiatric resident with at least 3 years of experience) or a specialist in psychiatry. In other words, the attending medical doctor is presumed to have *prima facie* capacity to do the capacity assessments. After all, the final answer will be decided by court.

Capacity Assessment: How?

There are different approaches, namely outcome approach, status approach and functional approach in contemporary capacity assessment. The misconception that

patient with dementia or a mental disorder automatically failed all mental capacities have been overridden by most jurisdictions in the world. The Mental Capacity Act in the United Kingdom has illustrated important principles with guidelines for the contemporary capacity assessment. In Hong Kong, clinicians have adopted the functional approach to assess the mental capacity i.e. the assessment is *specific to time and task*. The standard may vary with the time and situation of assessment and the complexity of the task involved in the same person.

The basic requirement for a capacity assessment, say, consent to a medical treatment, should demonstrate the elderly's ability to remember and *understand* relevant information about the nature of his/her illness, should have the ability to *appreciate* and reason the given information for his/her treatment options, decide and *communicate* his decision about the treatment to the assessor *voluntarily*.

An important consideration in financial capacity assessment is whether there is *undue influence* act upon the decision process of the elderly. Undue influence refers to the negative dynamic between an individual and another person. It describes the intentional use of social influence, deception and manipulation to gain control of the decision making of another person. This should be a paramount consideration in Chinese because many older people are "attached to" and depend on their children for a living.

In the assessment of financial capacity, it is important to obtain information regarding the elderly's lifelong values and approaches in managing money, investment and other financial affairs. The instrumental activities of daily living e.g. handle money note, cheque book and transaction are more reliable measures than the verbal replies of the elderly who might have cognitive impairment already. A number of generic or specific rating scales can be used to aid the assessment. It is noteworthy that the commonly used Mini-Mental State Examination is less useful in assessing financial capacity for its limitation in measuring executive functions and is protected by copyright. In fact, making a referral to an experienced occupational therapist or neuropsychologist for testing the functional and neurocognitive aspects can be an option. Use of modern technology e.g. computer program for testing is increasing common.

Discussion

The need for doing different levels of mental capacity assessment with reference to the legal requirements is pressing in Hong Kong. A majority of medical practitioners are

not familiar with the legal tests and are probably too busy in clinical or administrative issues. For medical or legal professionals with special interest in this area, there are few researches, guidelines or training opportunities for them to perform the assessment of mental capacities properly. In particular, financial capacity assessment bares high risk of litigation among disharmonious families.

From my clinical experience, many relatives still believe that it is a procedural requirement for a medical practitioner to sign on a medical certificate e.g. on the EPA form which is of similar nature for a sick leave certificate. In contrast, the relatives in dispute will "cherry-pick" those medical practitioners who are unaware of the conflicts and willing to provide a quick-fix for their interests. There is a notable gap in public education and more importantly medical education in which the dilemma of clinical and ethical issues, needs and risks associated with the financial capacity assessment for the elderly should be emphasized. The experienced professionals working in the field would be the gatekeeper for the elderly in Hong Kong.

Reference:

It is a summary based on the following articles which have a full reference list:

1) Lam CL & Chiu Helen, 2015. Mind the gap Assessing Financial Capacity of the Elderly, HKMA CME Bulletin May 2015 issue, available at www.hkma.org/english/cme/cme.htm

2) CL Lam & Helen Chiu, 2015. Assessing financial capacity for the elderly in Hong Kong: a review and the way forward (oral presentation). 2nd International Capacity Conference at the IPA International Congress 2015, Berlin, Germany, 13-16 October 2015.

3) 林智良醫生. 2015年3月6日 Mental Incapacitated Person 的財務安排, *Yahoo News* 精神點擊. Available at https://hk.news.yahoo.com/blogs/psyhk/mentally-incapacitated-person 的財務安排.html

World Bank Data, 2014. Available at http://databank.worldbank.org/data/reports.aspx?Code=SP.POP.TOTL&id=af3ce82b&report_name=Popular_indicators&populartype=series&ispopular=y

Census and Statistics Department, Sep 2015. Hong Kong Population Projections. Available at http://www.censtatd.gov.hk/press_release/pressReleaseDetail.jsp?charsetID=1&pressRID=3799

Census and Statistics Department, Aug 2009. *Thematic Household Survey Report No. 40:* Socio-demographic Profile, Health Status and Self-care Capability of Older Persons. Hong Kong SAR

Mental health and older adults

WHO Fact sheet (Reprint with permission)
Updated April 2016

Key facts

- Globally, the population is ageing rapidly. Between 2015 and 2050, the proportion of the world's population over 60 years will nearly double, from 12% to 22%.
- Mental health and emotional well-being are as important in older age as at any other time of life.
- Neuropsychiatric disorders among the older adults account for 6.6% of the total disability (DALYs) for this age group.
- Approximately 15% of adults aged 60 and over suffer from a mental disorder.

Older adults, those aged 60 or above, make important contributions to society as family members, volunteers and as active participants in the workforce. While most have good mental health, many older adults are at risk of developing mental disorders, neurological disorders or substance use problems as well as other health conditions such as diabetes, hearing loss, and osteoarthritis. Furthermore, as people age, they are more likely to experience several conditions at the same time.

The problem

The world's population is ageing rapidly. Between 2015 and 2050, the proportion of the world's older adults is estimated to almost double from about 12% to 22%. In absolute terms, this is an expected increase from 900 million to 2 billion people over the age of 60. Older people face special physical and mental health challenges which need to be recognized.

Over 20% of adults aged 60 and over suffer from a mental or neurological disorder (excluding headache disorders) and 6.6% of all disability (disability adjusted life years-DALYs) among over 60s is attributed to neurological and mental disorders. These disorders in the elderly population account for 17.4% of Years Lived with Disability (YLDs). The most common neuropsychiatric disorders in this age group are dementia and depression. Anxiety disorders affect 3.8% of the elderly population, substance use problems affect almost 1% and around a quarter of deaths from self-harm are among those aged 60 or above.

Substance abuse problems among the elderly are often overlooked or misdiagnosed.

Mental health problems are under-identified by health-care professionals and older people themselves, and the stigma surrounding mental illness makes people reluctant to seek help.

Risk factors for mental health problems among older adults

Multiple social, psychological, and biological factors determine the level of mental health of a person at any point of time. As well as the typical life stressors common to all people, many older adults lose their ability to live independently because of limited mobility, chronic pain, frailty or other mental or physical problems, and require some form of long-term care. In addition, older people are more likely to experience events such as bereavement, a drop in socioeconomic status with retirement, or a disability. All of these factors can result in isolation, loss of independence, loneliness and psychological distress in older people.

Mental health has an impact on physical health and vice versa. For example, older adults with physical health conditions such as heart disease have higher rates of depression than those who are medically well. Conversely, untreated depression in an older person with heart disease can negatively affect the outcome of the physical disease.

Older adults are also vulnerable to elder abuse - including physical, sexual, psychological, emotional, financial and material abuse; abandonment; neglect; and serious losses of dignity and respect. Current evidence suggests that 1 in 10 older people experience elder abuse. Elder abuse can lead not only to physical injuries, but also to serious, sometimes long-lasting psychological consequences, including depression and anxiety.

Dementia and depression among the elderly as public health issues

Dementia

Dementia is a syndrome in which there is deterioration in memory, thinking, behaviour and the ability to perform everyday activities. It mainly affects older people, although it is not a normal part of ageing.

It is estimated that 47.5 million people worldwide are living with dementia. The total number of people with dementia is projected to increase to 75.6 million in 2030 and 135.5 million in 2050, with majority of sufferers living in low- and middle-income countries.

There are significant social and economic issues in terms of the direct costs of medical,

social and informal care associated with dementia. Moreover, physical, emotional and economic pressures can cause great stress to families. Support is needed from the health, social, financial and legal systems for both people with dementia and their caregivers.

Depression

Depression can cause great suffering and leads to impaired functioning in daily life. Unipolar depression occurs in 7% of the general elderly population and it accounts for 5.7% of YLDs among over 60 years old. Depression is both underdiagnosed and undertreated in primary care settings. Symptoms of depression in older adults are often overlooked and untreated because they coincide with other problems encountered by older adults.

Older adults with depressive symptoms have poorer functioning compared to those with chronic medical conditions such as lung disease, hypertension or diabetes. Depression also increases the perception of poor health, the utilization of medical services and health care costs.

Treatment and care strategies

It is important to prepare health providers and societies to meet the specific needs of older populations, including:

- training for health professionals in care for older persons;
- preventing and managing age-associated chronic diseases including mental, neurological and substance use disorders;
- designing sustainable policies on long-term and palliative care; and
- developing age-friendly services and settings.

Health promotion

The mental health of older adults can be improved through promoting Active and Healthy Ageing. Mental health-specific health promotion for older adults involves creating living conditions and environments that support wellbeing and allow people to lead healthy and integrated lifestyles. Promoting mental health depends largely on strategies which ensure the elderly have the necessary resources to meet their basic needs, such as:

- providing security and freedom;
- adequate housing through supportive housing policy;
- social support for older populations and their caregivers;
- health and social programmes targeted at vulnerable groups such as those who live alone and rural populations or who suffer from a chronic or relapsing mental or physical illness;

- programmes to prevent and deal with elder abuse; and
- community development programmes.

Interventions

Prompt recognition and treatment of mental, neurological and substance use disorders in older adults is essential. Both psychosocial interventions and medicines are recommended. There is no medication currently available to cure dementia but much can be done to support and improve the lives of people with dementia and their caregivers and families, such as:

- early diagnosis, in order to promote early and optimal management;
- optimizing physical and psychological health and well-being;
- identifying and treating accompanying physical illness;
- detecting and managing challenging behavioural and psychological symptoms; and
- providing information and long-term support to caregivers.

Mental health care in the community

Good general health and social care is important for promoting older people's health, preventing disease and managing chronic illnesses. Training all health providers in working with issues and disorders related to ageing is therefore important. Effective, community-level primary mental health care for older people is crucial. It is equally important to focus on the long-term care of older adults suffering from mental disorders, as well as to provide caregivers with education, training and support.

An appropriate and supportive legislative environment based on internationally accepted human rights standards is required to ensure the highest quality of services to people with mental illness and their caregivers.

WHO response

- WHO's programmes for Active and Healthy Ageing have created a global framework for action at country level.
- WHO supports governments in the goal of strengthening and promoting mental health in older adults and to integrate effective strategies into policies and plans.
- WHO recognizes dementia as a public health challenge and has published the report, "Dementia: a public health priority", to advocate for action at international and national levels. Dementia, along with depression and other priority mental disorders are included in the WHO Mental Health Gap Action Programme (mhGAP). This programme aims to improve care for mental, neurological and substance use

disorders through providing guidance and tools to develop health services in resource poor areas.

- WHO organized the First Ministerial Conference on Global Action Against Dementia in March 2015, which fostered awareness of the public health and economic challenges posed by dementia, a better understanding of the roles and responsibilities of Member States and stakeholders, and led to a “Call for Action” supported by the conference participants.

Reference: WHO (2016). Mental Health and Older Adults. Geneva, World Health Organization (Fact sheet no. 381; http://www.who.int/mediacentre/factsheets/fs381/en/ accessed 26 August 2016)

HKPGA Mid-year Scientific Meeting 2016 at the Pamela Youde Nethesole Eastern Hospital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COUNCIL NEWS

The HKPGA Mid-year Scientific Meeting 2016 has been held at the HKEC Training Centre for Healthcare Management and Clinical Technology of the Pamela Youde Nethersole Eastern Hospital (PYNEH) on 24 Jun 2016 (Friday afternoon). Dr. Estee Wong from Shatin Hospital, Mr. Isaac Kwok from PYNEH, Mr. Ernest Yu from the Hong Kong Chinese Women's Club Madam Wong Chan Sook Ying Memorial C&A Home for the Aged, Dr. Karen Cheung from the University of Hong Kong, Mr. Wilson Wong and Lisa Tse from the Hong Kong Society for the Aged and Ms. Olive Sin from the St. James Settlement Kin Chi Dementia Care Support Service Centre had presented consecutively for the meeting. The detail of the meeting is available at *www.hkpga.org/main.php?id=146*. A summary of the presentations at the interdisciplinary forum will be published on the next issue of the HKPGA newsletters.

The HKPGA Annual Scientific Symposium will be held at the Hyatt Regency Hotel (Tsimshatsui) on 19 November 2016 Saturday morning. Prof. Brian Draper, Conjoint Professor in the School of Psychiatry at the University of New South Wales, Sydney will be the keynote speaker. The theme of the symposium will be on BPSD. More details will be available soon.

The Council is inviting HKPGA members to join the study tour for the upcoming IPA Asian Regional Meeting at the NTUH International Convention Centre in Taipei from 9 to 11 December 2016. The theme of the meeting is *"Safety and Integrated Care in Aging Mental Health: Cross-cultural Perspectives."* Please mark your diary and check the HKPGA website for the details.

EVENTS CALENDAR

Date	*Activity*	*Venue*
Sep 6-9, 2016	IPA International Congress 2016	San Francisco, USA
19 Nov, 2016	HKPGA Annual Scientific Symposium	Hyatt Regency Hotel, TST
Dec 9-11, 2016	IPA Asian Regional Meeting	Taipei, Taiwan

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