The Aid to Capacity Evaluation is conducted to determine a person’s ability to make informed decisions regarding his/her treatment and/or authorization to release confidential information. Persons served by Henrico Area Mental Health & Retardation Services are presumed capable of making decisions unless proven otherwise through this evaluation. Prior to conducting the evaluation, a staff member involved in the person’s care (doctor, case manager, occupational therapist) should explain the treatment or action and its risks, benefits and alternative treatments, if any. The evaluating clinician/case manager should also understand the treatment, so as to judge whether the person’s response is accurate. The evaluator should assure that the treatment has been explained to the consumer, using an appropriate communication method (e.g., sign language). If the evaluator feels that an adequate explanation has not been given, he/she may offer a brief explanation (see Guidelines) prior to conducting the Capacity Evaluation.

Observations should be recorded to support the score, including exact responses of the person. The attached Guidelines list sample questions. The evaluator should ask enough of these or other appropriate questions to assure an accurate assessment. Do not rely solely on yes/no questions. The answers to ALL domains should be Yes, in order for the person to be capable of informed consent. If uncertain of the person’s capacity, the evaluator may recommend further evaluation or consultation. In that case, the Evaluation shall not be completed until all information is available.

- **Domains 1-4** assess whether the person understands their current problem, the proposed treatment and other options, including withholding or withdrawing treatment.
- **Domains 5-6** assess whether the person appreciates the consequences of the decision.
- **Domains 7-9** assess whether other people or conditions (such as mental illness) affect the person’s decision.
- For Domains 1-6, if the person can respond appropriately to open-ended questions, score Yes. If they cannot respond appropriately, despite repeated prompting, score No.

1. Understands problem that requires treatment or action. 
   - Yes
   - No

2. Understands proposed treatment or action. 
   - Yes
   - No

3. Understands alternatives to treatment or action (if any). 
   - NA
   - Yes
   - No

4. Understands option of refusing proposed action or treatment (Including withholding or withdrawing treatment or action). 
   - Yes
   - No
Consumer: _________________________ Case #: __________

5. Understands **consequences of accepting** treatment or action.  
   Yes  No

   __________________________________________________________

6. Understands **consequences of refusing** treatment or action.  
   Yes  No

   __________________________________________________________

7. Gives consent of **own free will** without pressure from others.  
   Yes  No

   __________________________________________________________

Use questions 8 and 9 for persons with mental illness.

8. Can make a decision **regardless of depression**.  
   NA  Yes  No

   __________________________________________________________

9. Can make a decision **regardless of delusions/psychosis**.  
   NA  Yes  No

   __________________________________________________________

**OVERALL IMPRESSION:**

- **Capable** of informed consent (does not need Legally Authorized Representative)
- **Not capable** of informed consent (does need Legally Authorized Representative)

Comments:

___________________________________________________________

___________________________________________________________

___________________________________________________________

___________________________________________________________

___________________________________________________________

___________________________________________________________

___________________________________________________________

SIGNATURE OF STAFF  DATE: ____________

The Aid to Capacity Evaluation is adapted from the “Aid to Capacity Evaluation” from the University of Toronto, Joint Centre for Bioethics Revised 1/1/03 HAMHRS #444 REC
Below are sample questions the evaluator may use to determine a person’s understanding of the proposed treatment or action. Ask as many questions as needed to decide if the consumer fulfills the requirements for that domain.

If the evaluator feels that an adequate explanation of the proposed treatment or action was not given, he/she may provide such explanation. Sample explanations are given below using three scenarios for which informed consent is required.

- **Medication**: “The doctor wants you to take this medicine, because sometimes you get mad and hurt yourself.”
- **Occupational Therapy**: “The occupational therapist wants to work with you to help you move your hands to do your work.”
- **Release of Information**: “We want to talk to the people in the group home about your activities here at the day program and send them your plan and other information.”

1. **Understands condition.**
   - What problems are you having now?
   - What problem bothers you most?
   - Why are you … [in hospital, needing medicine, etc.]?
   - Do you have [name problem]?

2. **Proposed Treatment/Action**
   - What is the treatment for [your problem]?
   - What else can we do to help you?
   - Can you have [proposed treatment]?

3. **Alternatives**
   - Are there any other treatments?
   - What other options do you have?
   - Can you have [alternative treatment]?

4. **Option to refuse treatment**
   - Do you understand you can refuse [proposed treatment]?
   - Can we stop [proposed treatment]?

5. **Consequences of accepting treatment**
   - What could happen to you if you have [proposed treatment]?
   - Can [proposed treatment] cause problems or side effects?
   - Can [proposed treatment] help you?

6. **Consequences of refusing treatment**
   - What could happen if you don’t have [proposed treatment]?
   - Could you get sick (or die) if you don’t have [proposed treatment]?
   - What could happen if you choose [alternative treatment]?

7. **Makes decision of own free will**
   - Did someone tell you to have [proposed treatment]?
   - Did someone tell you something bad would happen if you don’t have [proposed treatment]?
   - Is what you are telling me based on your own feelings?
8. **Decision affected by depression**
   - Please help me understand why you have decided to accept/refuse treatment
   - Do you feel that you are being punished?
   - Do you think you are a bad person?
   - Do you have any hope for the future?
   - Do you deserve to be treated?

9. **Decision affected by delusions/pschosis**
   - Please help me understand why you have decided to accept/refuse treatment
   - Do you think anyone is trying to hurt or harm you?
   - Do you trust your [doctor, nurse, case manager, etc.]?
ADDITIONAL GUIDELINES FOR PERSONS WITH COGNITIVE OR COMMUNICATION DEFICITS

The evaluation will need to be adapted to the person’s level of disability. Individuals with mental illness and no cognitive disability present different challenges from the person with significant cognitive deficits. If the person uses picture communication or if pictures would enhance their communication (e.g. verbal but poor intelligibility), have appropriate pictures available. You should feel comfortable that the person is communicating true understanding, not just parroting back what is said. Use a sign language or foreign language interpreter, if appropriate.

If the evaluator feels that an adequate explanation of the proposed treatment or action was not given, he/she may provide such explanation. Sample explanations are given below using three scenarios for which informed consent is required.

- **Medication**: “The doctor wants you to take this medicine, because sometimes you get mad and hurt yourself.”
- **Occupational Therapy**: “The occupational therapist wants to work with you to help you move your hands to do your work.”
- **Release of Information**: “We want to talk to the people in the group home about your activities here at the day program and send them your plan and other information.”

Examples of **Acceptable** response are in bold. An Acceptable response is specific and accurate. It clearly shows that the person understands the issue.

Examples of unacceptable responses are in regular type. An Unacceptable response is inaccurate, vague or general. If the person gives such a response, you may ask for elaboration, but without giving inappropriate prompting. If the consumer needs an excessive amount of prompting, the response is not spontaneous.

1. **Understands the problem.**
   - **Medication** Acceptable: “When I get mad, I get myself in trouble.”
   - Unacceptable: “I’m sick”
   - **O.T.** Acceptable: Gestures to show that his hands are stiff and points to his work, shakes his head.
   - Unacceptable: Nods or hugs the O.T.
   - **Release of Information** Acceptable: “The people at my house need to know about me”
   - Unacceptable: “I like my house” or “I live at ______”

2. **Understands the treatment or action.**
   - **Medication** Acceptable: “I need to take this medicine to help control my temper.”
   - Unacceptable: “I trust the doctor”
   - **O.T.** Acceptable: Gestures to show how the O.T. works with him.
   - Unacceptable: Gives a gesture that cannot be interpreted.
   - **Release of Information** Acceptable: “You're going to send all those papers in my chart to Mrs. Smith at my house, so she can help me.”
   - Unacceptable: “I love my house. Mrs. Smith is so good to me.”

3. **Understands alternatives to the action.**
   - You should only ask questions if an alternative treatment (such as a different medication or medical procedure) is available.
   - **Medication** Acceptable: The other medicine made me sleepy
   - Unacceptable: I like this medicine. It helps me.
   - **O.T.** No alternative treatment.
   - **Release of Information** No alternative action.
4. Understands **option of refusing** proposed treatment or action.
   - Do you understand you don't have to do this? Do you have to do this?
   - Ask **both** questions. The first should be answered “yes’ and the other “no”.

5. Understands the **consequences of accepting** the treatment or action.
   - **Medication** Acceptable: “The doctor told me I might feel jumpy if I take this medicine.”
     Unacceptable: “Sometimes I get mad.”
   - **O.T.** Acceptable: The person gestures to show that sometimes when the O.T. works with him, his hands may hurt.
     Unacceptable: The person gives the same gestures as in the previous response.
   - **Release of Information** Acceptable: “Mrs. Smith will know if I mess up here.”
     Unacceptable: “Mrs. Smith brings me here, she knows what I do here.”

6. Understands the **consequences of refusing** the treatment or action.
   - **Medication** Acceptable: “If I don’t take my medicine, I probably will have to go to the hospital. My boss might fire me.”
     Unacceptable: “My case manager will tell me I need this medicine.”
   - **O.T.** Acceptable: He gestures to show that without the O.T., his hands would get more stiff and contracted.
     Unacceptable: The person gives the same gestures as in the previous response.
   - **Release of Information** Acceptable: “If the people at my house don’t talk to you, they can’t help me.”
     Unacceptable: “The people at the house need to know about me.”

7. Gives consent of **own free will**, without pressure from others.
   If the person indicates they are doing this only because someone told them to, or if the person always relies on others to make decisions, indicate this. If the person is overly compliant and unduly influenced by others, even when the request and their response to the request shows poor judgment, indicate this.

   If the person always answers all questions, “yes”, this area should be closely considered. Ask the person a variety of questions, to which you know the answer, with both “yes” and “no” answers. “Will this medicine help you keep from feeling mad? (Yes) and then “Will this medicine make you get mad?” (No). Only rely on Yes/no questions if you can document that the consumer reliably and consistently answers such questions. If the person is non-verbal and only uses gestures or pictures, you will need to document carefully how you determine that they make a free choice decision.