

*This decision support tool is provided solely for guidance, does not replace a professional's judgment and can be adapted to institutional circumstances. The recommendations were developed using a systematic approach supported by the scientific literature and the knowledge and experience of Québec clinicians and experts. For further details, go to [inesss.qc.ca](http://inesss.qc.ca).*

## Signs of abuse or neglect

**Be vigilant** and always be on the lookout for signs of abuse or neglect in patients diagnosed with an NCD.

### ✓ If in doubt

- ▶ Encourage the patient to tell a social services professional, a friend, a family member or the police.
- ▶ Contact the appropriate resources for information and psychological support and assistance for the patient in medical or legal procedures (the Aide Abus Aînés helpline, Tel-Aînés, etc.).

### ✋ Types of abuse

Abuse in patients diagnosed with an NCD can assume the form of:

- ▶ Physical abuse or sexual assault;
- ▶ Emotional or psychological abuse;
- ▶ Financial abuse (theft of money, misuse of their property);
- ▶ Neglecting their basic needs (food, clothing, shelter).

## Legal documents and levels of care

The physician should have an informed discussion with the patient **at an early stage** of their cognitive decline.

### ✓ To be discussed with the patient

- ▶ Encourage the patient to **prepare or update the different legal documents** in order to express and have respected their wishes in terms of medical care and treatment in the event that they become incapable of giving consent (advance medical directives [AMDs], will, and mandate in anticipation of incapacity).
- ▶ The physician should initiate or continue the discussion with the patient (and the caregiver, if the patient so desires) for the purpose of **determining or reviewing** the **level of care (NIM)**.



### For health and social services professionals

- ▶ Only a **physician** can determine the level of care on the basis of the patient's health and the care objectives previously discussed with them.
- ▶ Other health and social services professionals can participate in the discussion, if relevant and if the patient so desires.

### ✋ When the patient becomes incapacitated

The process (determining and reviewing the levels of care) is carried out in the patient's presence, to the extent possible, with the legally mandated representative or with the public curator on the treating physician's recommendation.

## Driving

Quickly **initiate** a discussion with the patient about their fitness to drive and inform them that a closer follow-up and periodic assessments will be necessary:

- ▶ Every 6 to 12 months or sooner if a significant change is noticed in their health and functional autonomy;
- ▶ If there is an incident (e.g., a traffic accident).

## ✓ Public safety

If, when driving, the patient poses a risk to public safety:

- ▶ Inform them of the option of using other means of transportation with their network (family members or community organizations);
- ▶ Explore with the patient strategies for handing over their keys and, possibly, their vehicle, to the extent that they agree to the order not to drive;
- ▶ Tell the patient that those around them might be kept abreast of the situation;
- ▶ Inform the patient that a report might be filed with the Société de l'assurance automobile du Québec (SAAQ) if they do not comply with the order not to drive;
- ▶ Advise them that everything will be documented and entered into their medical record.

**Note:** Screening tools may help identify driving-related risk factors, but they cannot be used to determine a patient's unfitness to drive a road vehicle.

## ✋ Report filed with the SAAQ

If there is a risk to public safety or if in doubt, anyone, including the patient, can file a report on them with the SAAQ.

## 👥 For health and social services professionals

- ▶ Only physicians, nurses, occupational therapists, psychologists and optometrists are legally authorized to file a report with the SAAQ concerning a patient they deem unfit to drive:
  - The *Highway Safety Code* permits only these professionals to breach the confidential relationship between them and the patient and states that no action in damages may be brought against them.
- ▶ All professionals who do not have legal protection should share their suspicion regarding the patient's fitness to drive a road vehicle with the other members of the care team designated in the *Highway Safety Code*, in order to arrive at a collective decision about filing a report with the SAAQ. In the event of a disagreement, it is up to each team member to exercise their professional judgment in the situation.

**Note:** Filing a report with the SAAQ is strongly recommended when a professional advises a patient not to drive for health reasons that fall within their area of expertise and the patient does not seem to want to comply with the order not to drive.

- ▶ An occupational therapist can carry out an on-road evaluation if there is, for example:
  - Some question as to the patient's fitness to drive;
  - The possibility of adjusting or modifying the patient's driving habits or if rehabilitation is an option.



## Information for health and social services professionals

CMA: Canadian medical Association.  
*Driver's Guide: Determining Medical Fitness to Operate Motor Vehicles*. 8<sup>th</sup> ed., 2012  
(9<sup>th</sup> edition forthcoming).

[www.cma.ca](http://www.cma.ca)

**Note:** Accessible only to physicians who are members of the CMA.

CMQ: Collège des médecins du Québec.  
Société de l'assurance automobile du Québec. *L'évaluation médicale de l'aptitude à conduire un véhicule – Guide d'exercice*, 2007.

<http://www.cmq.org/publications-pdf/p-1-2007-03-01-fr-evaluation-medicale-aptitude-conduire.pdf>

OEQ: Ordre des ergothérapeutes du Québec. *Interventions relatives à l'utilisation d'un véhicule routier: guide de l'ergothérapeute*, 2008.

[http://www.oeq.org/DATA/NORME/30~v~guide\\_auto.pdf](http://www.oeq.org/DATA/NORME/30~v~guide_auto.pdf)

SAAQ : Société de l'assurance automobile du Québec : *Guide à l'évaluation de l'aptitude à conduire*, 2015  
(available in the fall of 2015).

- Déclaration d'inaptitude à conduire un véhicule routier
- Rapport d'examen médical par un médecin omnipraticien
- Rapport d'examen visuel par un ophtalmologiste ou un optométriste
- Rapport d'évaluation fonctionnelle sur l'aptitude physique et mentale à conduire un véhicule routier

**Note:** The SAAQ's guide and forms are available on its health extranet. For further information, contact your professional order.



## Information for the patient or caregiver

SAAQ: "Health in the Driver's Seat".

<https://saaq.gouv.qc.ca/fileadmin/documents/publications/driver-seat-health.pdf>

SAAQ: "Why a Medical Assessment?"

<https://saaq.gouv.qc.ca/fileadmin/documents/publications/why-medical-assessment.pdf>

## Maintaining autonomy, and safety at home

- ▶ **Maintain and foster** the patient's autonomy for as long as possible within the limits of their decision-making abilities and without jeopardizing their safety.
- ▶ **Check** if the patient's physical or mental condition is jeopardizing their **safety at home**.



### If in doubt

- ▶ Refer the patient and caregiver to home services.
- ▶ If there is an **immediate danger** to the patient or others, the patient should be referred to emergency services.



## Socially isolated patient living at home

Set up a team to monitor the patient from a medical, psychological and social standpoint in a timely manner.

**Note:** The opinion of a team highly specialized in the behavioural and psychological symptoms of dementia (BPSD) and that of other second-line services may be required.

## Incapacity

- ▶ A diagnosis of AD or another NCD alone is not enough to make a **declaration of incapacity**. Such a declaration is based on:
  - A medical and psychosocial evaluation that takes the patient's previous level of functioning into account;
  - The assessment of a functional impairment;
  - Their living environment, culture, beliefs and values;
  - The presence of exacerbating factors.



### For health and social services professionals

- ▶ Based on all the risks and the risk level for the patient or those around them, and on the severity of the consequences, a patient may be deemed partially or totally incapable of managing their affairs and/or taking care of themselves.
- ▶ The incapacity is temporary or permanent, depending on the nature of the medical condition.
- ▶ If a patient deemed incapacitated is well supported, preference should be given to less restrictive solutions (nonlegal measures) for the activities of daily living.
- ▶ The treating physician and their team should discuss nonlegal protection measures with the caregiver.



### Nonlegal protection measures for patients deemed incapacitated

- ▶ Involve the family members in providing the patient with more frequent support:
  - By providing meal support on a more regular basis;
  - Increasing the frequency of visits and phone calls.
- ▶ Provide support in their financial transactions:
  - Limit their pocket change;
  - Lower or cancel the options on their credit or debit cards or take the cards away, together with their checks;
  - Set up preauthorized payments;
  - Monitor their bank transactions online, with their authorization.
- ▶ Initiate home services (Meals on Wheels, telemonitoring, help with personal hygiene, volunteer transportation).
- ▶ Help them choose a living environment suited to their needs.
- ▶ Supervise and streamline their medication-taking and check their adherence to pharmacological treatments.

This list is not exhaustive and is provided as an example only.



### Capacity vs. incapacity

- ▶ By law, a patient is presumed capable.
- ▶ Incapacity must be assessed and proven, if applicable.

## The patient's ability to manage their affairs

**Check** if the patient's physical or psychological condition is jeopardizing their ability to manager their affairs.



### If in doubt

- ▶ Evaluate their **daily financial** management (handling cash, understanding statements, writing checks, remembering purchases or bank transactions, etc.).
- ▶ Assess their awareness of their financial situation (awareness of their estate, assets, debts, and monthly income and expenses).
- ▶ Evaluate their perception of their incapacity and their **need for assistance** (recognizes their inabilities, uses compensatory measures and gets things done).



### Ability questioned

An NCD patient's ability to manage their affairs is often questioned when they:

- ▶ Seem to be at risk for abuse or vulnerable to influences and pressure;
- ▶ Are a victim of undue pressure or influence;
- ▶ Are socially isolated;
- ▶ Make decisions or do things that those around them find inappropriate and unusual.

**Note:** The kit known as the Échelle de Montréal pour l'évaluation des activités financières (ÉMAF) can be used to measure a person's functional ability to manage their affairs when this ability is in doubt.



### For health and social services professionals

The expertise of a **social worker**, an **occupational therapist**, a **neuropsychologist** or a **specialized team** might be necessary to better determine the contribution of the NCDs and functional impairment to the patient's inability to manager their affairs.

**Note:** Under Bill 21, some of the evaluations mentioned above are reserved activities.

## The patient's ability to take care of themselves

**Check** if the patient's physical or mental condition is jeopardizing their ability to take care of themselves independently.



### If in doubt

The following should be taken into consideration:

- ▶ The patient's autonomy in their activities of daily living (ADL)/ instrumental activities of daily living (IADL) (bladder function, maintaining their living environment, shopping, managing their medical and pharmacological treatments, etc.);\*
- ▶ Their awareness of their state of health (recognizes their health problems, assesses the risks and consequences of treatments);
- ▶ Their ability to protect themselves (protects themselves, reacts to emergency situations and has action plans).

\*The situation may require an evaluation by an occupational therapist.



### Ability questioned

If recent events suggest that the patient is no longer able to ensure their well-being or look after their health, especially if they live alone.



## Elements to be taken into consideration when determining if the patient's physical or mental condition is jeopardizing their ability to take care of themselves independently

<b>All risks** †</b>	<ul style="list-style-type: none"> <li>• Inadequate medication management;</li> <li>• Diet inadequate in terms of quantity or quality;</li> <li>• The condition of their residence (cleanliness, signs of fire);</li> <li>• The inability to get the appropriate help in an emergency (a fire, an illness or a fall);</li> <li>• The state of their affairs;</li> <li>• Estate.</li> </ul>
<b>The frequency or probability of the risks occurring†</b>	<ul style="list-style-type: none"> <li>• Possible</li> <li>• Probable</li> <li>• Imminent</li> <li>• Uncertain</li> </ul>
<b>The extent of the consequences</b>	<ul style="list-style-type: none"> <li>• Severity (mild, moderate, severe);</li> <li>• Duration (temporary or permanent);</li> <li>• Nature.</li> </ul>
<b>The presence of exacerbating factors** †</b>	<ul style="list-style-type: none"> <li>• Human situational demands (e.g., dependents);</li> <li>• Physical situational demands (e.g., a house or other property that needs to be maintained, residence in an isolated or difficult-to-access location, etc.);</li> <li>• A reported or suspected abusive situation;</li> <li>• Isolation.</li> </ul>
<b>The presence of attenuating factors**</b>	<ul style="list-style-type: none"> <li>• Adequate family support and a reliable social network;</li> <li>• Responsible and safe behaviour;</li> <li>• The ability for self-critique regarding their situation.</li> </ul>

\*\* This list is not exhaustive and is provided as an example only.

† From Giroux, D., Tétreault, S., Langlois, L. (2012). Présentation d'un modèle décisionnel concernant l'aptitude d'une personne âgée atteinte de déficits cognitifs à gérer sa personne et ses biens. La Revue Francophone de Gériatrie et de Gérontologie, 19 (186):224- 236.

## The need for protection

A **need for protection should be suspected** if an incapacitated patient has to be assisted or represented in the exercise of their civil rights. The need **can result from isolation**, the duration of the incapacity, or the nature or state of their affairs.

### ✓ If there is any uncertainty regarding the need for protection

- ▶ Refer the patient and caregiver to a social worker for a **psychosocial assessment of the situation** and a possible recommendation to open protective supervision (e.g., tutorship or curatorship) that will meet the patient's needs.
- ▶ Check if there is a **mandate in case of incapacity**:
  - If there is one, request that it be homologated;
  - If there is not, ask the court to open protective supervision commensurate with the determined degree of incapacity.

### ✋ Legal protection

A patient's incapacity does not always require the opening of legal protective supervision, especially if their needs are being met and they have an adequate support network.

### 👥 For health and social services professionals

- ▶ Evaluations **required** for an application to open protective supervision or for the approval of a mandate in anticipation of incapacity:
  - **Physician**: a medical evaluation (determines the degree of the patient's incapacity);
  - **Social worker**: a psychosocial evaluation (determines the patient's support network and need for protection).
- ▶ Evaluations **useful** for obtaining a complete profile, if necessary:
  - **Occupational therapist**: an evaluation of the patient's functional skills and level of autonomy;
  - **Neuropsychologist**: an evaluation of the patient's cognitive functions or superior mental functions;
  - **Nurse**: an evaluation of the patient's physical and mental condition.

**Note:** Under Bill 21, some of these evaluations are reserved activities.

## An incapacitated person of a full age and refusal of health care

In the event that an incapacitated person of full age categorically **refuses** care that is deemed necessary, an **application for a treatment or housing order** must be presented to the court.

### ✓ Treatment or housing order

The physician must:

- ▶ Determine if the patient's health is interfering with their capacity to give consent;
- ▶ Document the patient's problems understanding, processing or making sense of the following information:
  - The nature of their illness;
  - The nature and purpose of the care;
  - The risks associated with the care;
  - The risks involved if the care is not provided.

**Note:** An order for treating or housing a patient against their will must be obtained in order to treat or house them without their consent.

### ✋ Capacity to consent to care

A person of full age under protective supervision, such as tutorship or an approved mandate:

- ▶ May be deemed capable of consenting to or refusing care.
- ▶ Conversely, a capable patient may occasionally or temporarily be incapable of consenting to care.



## Information for health and social services professionals

Curateur public du Québec

<http://www.curateur.gouv.qc.ca/cura/en/index.html>

Ordre des travailleurs sociaux et des thérapeutes conjugaux et familiaux du Québec. L'évaluation psychosociale dans le contexte des régimes de protection, du mandat donné en prévision de l'inaptitude et des autres mesures de protection du majeur, 2011.

<https://www.otstcfq.org/docs/cadres-et-guides-de-pratique/guide-eval-psycho-protection-inaptitude.pdf?sfvrsn=3>



## Information for the patient or caregiver

Curateur public du Québec. "A Close Relative or Friend Becomes Incapacitated – How Can You Help Them?"

[https://www.curateur.gouv.qc.ca/cura/publications/broch\\_un\\_de\\_vos\\_proches\\_en.pdf](https://www.curateur.gouv.qc.ca/cura/publications/broch_un_de_vos_proches_en.pdf)