Arizona statutes do not establish standards for determining whether a cognitively-impaired adult can make and communicate health care treatment decisions. A person meets the clinical standard for being incapacitated if he is:

“Impaired by reason of mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, chronic intoxication or other cause...to the extent that he lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his person.” A.R.S. § 14-5101.

It is generally recommended in the clinical setting that a physician with appropriate clinical training determine capacity. Consultation with a psychiatrist or psychologist may be advisable in some situations, but is not required when treatment is for conditions unrelated to the subject’s mental health.

In the event there is neither a court-appointed guardian nor an agent under a health care power of attorney, surrogate consent for research may be given by other individuals as described in “P&P-013: Cognitive Impairment, Legally Authorized Representatives, Children, Guardians for Non-Emergency Research.”