

**Assisted Decision Making (Capacity) Act 2015  
as a conduit for realising  
human rights in mental health**

*Brendan Kelly*



The twelve-month  
project of a self-  
confessed 'Zen  
failure'

**The  
Doctor Who  
Sat for a Year**  
Brendan Kelly



**GILL**

audible 

**1. ADMCA 2015**

**2. Numbers**

**3. Conclusions**



**“Capacity”  
vs  
“Disability”**

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*Number 64 of 2015*

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**Assisted Decision-Making (Capacity) Act 2015**

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- **Presumption of capacity**
- **Functional assessment**
  - *Understand*
  - *Retain*
  - *Use or weigh up*
  - *Communicate*

**No Circuit Court**

1. **Decision-making assistant**

2. **Co-decision-maker**

3. **Decision-making representative**

**Circuit Court**

*How much decision-making authority is given away?*

No Circuit Court

1. **Decision-making assistant** 0%

2. **Co-decision-maker** ? 50%

3. **Decision-making representative**

100%

Circuit Court

**1. ADMCA 2015**

**2. Numbers**

**3. Conclusions**



**2018**

**17,000 psychiatry admissions**

**650,900 medical admissions**

**27,000 people in nursing homes**

**Medical and  
surgical  
inpatients  
(n=300)**

**Full capacity**

**Partial capacity**

**Lack capacity**

ORIGINAL PAPER

## Who can decide? Prevalence of mental incapacity for treatment decisions in medical and surgical hospital inpatients in Ireland

R. Murphy<sup>1</sup>, S. Fleming<sup>2</sup>, A. Curley<sup>1,3</sup>, R.M. Duffy<sup>1,4</sup> and B.D. Kelly<sup>1</sup>

From the <sup>1</sup>Department of Psychiatry, Trinity College Dublin, Trinity Centre for Health Sciences, Tallaght University Hospital, Dublin D24 NR0A, Ireland, <sup>2</sup>Department of Medicine, Midland Regional Hospital, Portlaoise, County Laois R32 RW61, Ireland, <sup>3</sup>Department of Psychiatry, Crosslanes, Drogheda, County Louth A92 TC3R, Ireland and <sup>4</sup>Department of Adult Psychiatry, Mater Misericordiae University Hospital, Dublin D07 YH5R, Ireland

# Medical and surgical inpatients (n=300)

*Ruth Murphy*

**Full capacity**

**Partial capacity**

**Lack capacity**

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# Medical and surgical inpatients (n=300)

*Ruth Murphy*

**Full capacity**

**71%**

**Partial capacity**

**2%**

**Lack capacity**

**28%**

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**Medical and  
surgical  
inpatients  
(n=300)**

*Ruth Murphy*

**Psychiatry  
inpatients  
(n=215)**

*Aoife Curley*

**Full capacity**

**71%**

**Partial capacity**

**2%**

**Lack capacity**

**28%**

ORIGINAL PAPER

# Who can decide? Prevalence of mental incapacity for treatment decisions in medical and surgical hospital inpatients in Ireland

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**Medical and surgical inpatients (n=300)**

*Ruth Murphy*

**Psychiatry inpatients (n=215)**

*Aoife Curley*

**Full capacity**

**71%**

**47%**

**Partial capacity**

**2%**

**51%**

**Lack capacity**

**28%**

**2%**

*older, unmarried, not working outside home, more diagnoses*

*involuntary, non-Irish, unemployed, older*



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Categorical mental capacity for treatment decisions among psychiatry inpatients in Ireland



Aoife Curley<sup>a,\*</sup>, Ruth Murphy<sup>a</sup>, Róisín Plunkett<sup>b</sup>, Brendan D. Kelly<sup>a</sup>

<sup>a</sup> Department of Psychiatry, Trinity College Dublin, Trinity Centre for Health Sciences, Tallaght University Hospital, Dublin 24 D24 NR0A, Ireland

<sup>b</sup> Department of Liaison Psychiatry, Beaumont Hospital, Beaumont Road, Dublin 9 D09 A0KH, Ireland

**Voluntary**  
***n=176***

**Involuntary**  
***n=39***

**Full capacity**

**Partial capacity**

**Lack capacity**



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	<b>Voluntary</b> <i>n=176</i>	<b>Involuntary</b> <i>n=39</i>
<b>Full capacity</b>	<b>58%</b>	
<b>Partial capacity</b>	<b>40%</b>	
<b>Lack capacity</b>	<b>2%</b>	





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	<b>Voluntary</b> <i>n=176</i>	<b>Involuntary</b> <i>n=39</i>
<b>Full capacity</b>	<b>58%</b>	<b>0%</b>
<b>Partial capacity</b>	<b>40%</b>	<b>100%</b>
<b>Lack capacity</b>	<b>2%</b>	<b>0%</b>

**1. ADMCA 2015**

**2. Numbers**

**3. Conclusions**



**“Medicine is a social science, and politics nothing but medicine at a larger scale”**

**Rudolf Virchow  
(1821-1902)**

# Dignity, Mental Health and Human Rights

Coercion and the Law

BRENDAN D. KELLY



[brendan.kelly@tcd.ie](mailto:brendan.kelly@tcd.ie)



The twelve-month  
project of a self-  
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# The Doctor Who Sat for a Year

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## Mental Illness, Human Rights and the Law

Brendan D. Kelly