According to estimates of the Swiss Alzheimer Association, about 96,000 persons suffer from different forms of dementia in Switzerland. We expect 21,000 new cases per year, every year about 18,000 persons suffering from dementia die. One third of patients are correctly diagnosed, one third suffers presumably from a cognitive disorder, but for one third of the patients the cognitive disorder has not been recognised. More than half of the persons suffering from dementia live at home and about 40% in an institution. We estimate, that 300,000 relatives are directly involved. Only 25% of persons suffering from dementia receive specific drug treatment, and only 20% receive specific non-drug treatment.

In Switzerland the diagnosis of dementia is often carried out in memory clinics, in multi-disciplinary working collaboration of neuropsychology, psychiatry of the elderly, geriatric medicine, neurology, neuroradiology, social workers and nursing staff.

In order to improve the diagnosis and the treatment of dementia the following principles of assessment have to be established:

- Recognising cognitive deficits, describe premorbid functional ability and behaviour.
- Record past and present general medical status and medication.
- Objective assessment, especially useful in cases of mild to moderate dementia.
- Establish specific patterns of cognitive deficits.
- Differential diagnosis of depression and dementia.
- Formal assessment of the impact on caregivers living with and looking after a person with dementia.
- Recording response to different interventions (pharmacotherapy, sociotherapy, psychotherapy).

To assess strengths and weaknesses of evaluation relative to a standardised scoring system a detailed research program has to be established in order to introduce screening and rating scales, specific tests, behavioural checklists, interview-based questionnaires and detailed measures of cognition, ADL and general functions.

The law relating to the elderly demented individual and to those responsible for their care varies widely from country to country. In Switzerland federal civil law is applied quite different in the 24 cantons in specific cantonal laws and regulations. As in most modern countries, self-determination of any person from birth to death is guaranteed by the constitution. As a consequence, any medical act, such as an operation but also the administration of drugs is, as a matter of principle, unlawful, if not permitted by

(a) the consent of the patient,
(b) the consent of his (legal) representative in patients habitually incompetent and
(c) good medical practice and commensurability in momentarily incompetent patients (emergency cases).

This would literally imply that, in any demented persons, who are not competent to consent, a legal representative (for this affair) should be imposed (“Vertretungsbeistandschaft”, Art. 392 Paragraph 1 Swiss civil code). For persons, who are, due to mental disorder or dementia, not capable to manage their affairs,
who are in need of continuous protection and care or peril the safety of others, legal guardianship has to be established.

Unfortunately Swiss authorities are very conservative ordering such measures if not requested by the respective person. (Side note: How should an incompetent person dependably ask for legal guardianship?; mostly the significant others have to ask for help!) This reluctant attitude is partly a backlash from widespread abusive practices up to the seventies, as, for example, to impose systematically guardianship for children from ethnic minorities, sterilizing mentally disabled women surgically and setting mentally disabled men under anti-androgenic medication.

As a result, Swiss physicians, especially when dealing with mentally ill and/or demented patients, hover between legal preconditions and daily practice. The daily practice formed the following main principles of common law in dealing with demented patients:

- A diagnosis of dementia should not automatically mean that the patient’s views are no longer to be considered. However, only competent persons are able to make voluntary and informed choices that are ethically and legally valid.
- Individuals capable of making their own decisions should always be allowed to do so, in keeping with the ethical principles of respect for autonomy and justice. For those not capable of making their own valid choices, the family and professionals’ responsibility is one of protection.
- Assessing competence is never easy and patients may be competent to make their own decisions. In general, patient’s views should be paramount, unless others will be adversely affected or there is concerns about safety (e.g., driving).
- Aspects to be considered when making a decision about competence should include the ability to:
  - Communicate and maintain a stable choice
  - Understand (and remember) relevant information in order to make an informed choice
  - Grasp the significance of the situation
  - Manipulate information rationally to gain logical and consistent conclusion
- An independent patient’s advocate may help decision making. Alternatively reference can be made to a committee set up to consider legal issues. Neither should merely be used as a way of passing on to others the responsibility for difficult decisions.
- Decision-making ability may change over time, for example as dementia progresses or delirium resolves. Re-evaluation of capacity may be required at regular intervals, to determine whether competence has been lost or regained.

If the patient is considered incompetent, then someone else must make the decisions for him. According to the above mentioned practice, this may be their next relative, their professional adviser, someone legally appointed by the patient, while he was still mentally capable or some legal advisor.

The following points should be considered during the process of decisions making:

- The primary care physician is ultimately responsible for any medical decisions in the best interest of the patient and will be accepted by a responsible body of medical opinion
- Judging capacity for consent will, at least, be greatly influenced by medical opinion leading to diagnosis. The physician involved should gather information from all available sources as well as carefully assessing the patient, who should be helped to understand and contribute to the decision making
- Close family and friends should be consulted before a final decision has been made. They may be able to provide information about what the demented patient would have wanted, if he or she were able to express their opinion openly
- A second opinion is always wanted if there is an uncertainty

An expert commission has conceptualized during the last 15 years a draft for a new law concerning guardi-