

Who makes decisions about your treatment?

Information for residents
of Ontario long-term care homes

This booklet was created by the
PoET Southwest Spread Project Implementation Team.
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Where do the rules about treatment decisions come from?

Ontario's law called the "Health Care Consent Act" sets out the rules related to consent, capacity, and substitute decision making about treatment decisions.

The rules set out in the Health Care Consent Act apply in long-term care homes, and across Ontario.



What does it mean to be “incapable” of making a treatment decision?

A person is incapable of making a treatment decision if he or she does not have both the ability to understand information related to the decision, and the ability to appreciate the effects of receiving (or not receiving) the treatment.

Someone must have both of these abilities to be considered capable.

UNABLE to
UNDERSTAND
OR
APPRECIATE



Who decides if I am capable of making a treatment decision or not?

The person proposing the treatment is responsible for evaluating the patient's capacity.

In most cases, your physician will be the person proposing treatment for you. In some cases the physician might rely on another health care provider, such as a nurse, to do the evaluation.



I have been told that I have been found incapable of making a treatment decision. What can I do?

You can appeal this finding by completing what is called a “Form A” with Ontario’s Consent and Capacity Board.

The Consent and Capacity Board’s contact information is included at the end of this booklet.

You can ask your physician or staff at your home to help you complete the form.



Can I still make my own treatment decisions even though I live in a long-term care home?

You are able to make your own treatment decisions so long as you are considered capable to do so.

Where you live does not determine what treatment decisions you can make.



I was found incapable of deciding to be admitted to long-term care; does that mean I am incapable of making treatment decisions?

No.

Capacity is decision-specific. This means that even if you are incapable of making one decision you might still be capable of making a different decision.

Capacity is also time-specific. This means that you might be capable of making a particular decision at one time, and not at another.

Even if you are not capable
of making all treatment
decisions at all times, you
have the right to make
whichever decisions you are
capable of making
whenever you are capable of
making them.

I made a Power of Attorney for Personal Care document. Does that mean I can no longer make my own treatment decisions?

No.

When you signed a Power of Attorney for Personal Care you chose who you would want to make treatment decisions for you if you were to become incapable.

Signing a Power of Attorney for Personal Care does not make you incapable, and it does not give the person you name the automatic right to make your treatment decisions for you.

Who will make my treatment decisions when I am incapable?

The *Health Care Consent Act* includes a list of people that your health care providers will turn to:

1. Guardian
2. Power of Attorney for Personal Care
3. Representative
4. Spouse or Partner
5. Child or Parent
6. Parent with right of access only
7. Any other relative
8. Public Guardian and Trustee

The first person or people on the list will be your “substitute decision maker(s),” as long as they are capable, willing, and available to make the decision.

I want a specific person to make treatment decisions for me if I become incapable. What can I do?

You can name a specific person or specific people by completing a Power of Attorney for Personal Care Document.



What can I do if I am receiving treatment that I do not want?

Speak to your nurse or physician.

It is possible that someone else (your “substitute decision maker”) consented to the treatment when you were incapable. If you are now capable, you have the right to choose if you want to continue with the treatment or refuse it.

It is also possible that you would benefit from more information about the treatment. Your nurse or physician can provide this information to you.

I know what treatments I would (or would not) want in the future. What can I do?

You can speak to your substitute decision maker(s) to make sure that they know and understand your wishes. If a situation arises and your wish applies to it, your substitute decision maker(s) must make the treatment decision that is in line with that wish (as long as it is possible to do so).

In addition to speaking to your substitute decision maker(s) you can also put your wishes in writing.



I don't know what I would or would not want in the future. What can I do?

Speak to your substitute decision maker(s) about your values and beliefs. If your substitute decision maker(s) are asked to make a decision for you and they don't know of a wish that applies to the situation, they must make the decision that is in your "best interests." To determine what is in your best interests, your substitute decision makers must consider your values and beliefs (among other things).

In addition to speaking to your substitute decision maker(s) you can also put your values and beliefs in writing, and/or ask that they be documented in your health record.

Things to keep in mind:

✓ A person is capable of making a treatment decision if he or she has both (1) the ability to understand information related to the decision, and (2) the ability to appreciate what effects the decision will have.

✓ If you are not sure, you can ask your physician what treatment or treatment plan he or she is proposing.

✓ A substitute decision maker should be making treatment decisions for you only if you have been found to be incapable of making that particular decision.

✓ You can appeal a finding of incapacity through the Consent and Capacity Board.

✓ Being incapable of making one decision does not mean you are incapable of making any other decision, or all decisions.

✓ Being incapable at one time does not mean you are incapable at all times.

✓ Living in a long-term care home does not mean you are incapable of making your own treatment-related decisions.

✓ If you are not capable of making a treatment-related decision, the decision will be presented to your substitute decision maker.

✓ You can choose your own substitute decision maker by making a Power of Attorney for Personal Care.

✓ If you know what treatment(s) you would or would not want in the future, tell your substitute decision maker(s).

✓ Share your values and beliefs with your substitute decision maker(s). Your substitute decision makers will have to take your values and beliefs into consideration if they have to consider your “best interests.”

For more information:

The PoET Project Website

www.poetproject.ca

Consent and Capacity Board of Ontario

www.ccboard.on.ca

(416) 327-4142

Ministry of Long Term Care

www.ontario.ca/page/ministry-long-term-care

1-800-268-1153

Advocacy Centre for the Elderly

advocacycentreelderly.org

1-855-598-2656

Speak Up Ontario

www.speakupontario.ca



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Prevention of Error-based Transfers

www.poetproject.ca