

## Section I

### Rank of Substitute Decision-Makers from the Health Care Consent Act

1. A **guardian** with the authority to give or refuse consent to treatment
2. An **attorney** for personal care with the authority to give or refuse consent to Treatment
3. A **representative** appointed by the Consent & Capacity Board
4. A **spouse** or **partner**
5. A **child** or **parent**
6. A **parent** who has only a right of access
7. A **brother** or **sister**
8. Any other **relative** (related by blood, marriage or adoption)
9. **Public Guardian and Trustee**

([www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca))

**Please ask questions.** We are here to help our patients and their families.

At Name of Organization, we are committed to providing excellent patient care and ensuring that patients and **SDMs** have appropriate information about their rights and obligations. Please feel free to talk to the staff here - including social workers, spiritual care providers and ethicist.

These professionals are here to help everyone through difficult times and to help ensure that you have the information you require to help you make decisions concerning consent to treatment in line with the wishes or best interests of **your loved one**.

Name of Organization  
Ethics  
Phone Number  
**Website**

Consent & Capacity Board  
Toronto Regional Office  
Phone: (416) 327-4142  
Fax: (416) 924-8873  
**[www.ccboard.on.ca](http://www.ccboard.on.ca)**

Health Care Consent Act  
**[www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca)**

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# Making Decisions for Other People

## *The Role of the Substitute Decision-Maker (SDM)*



Our Vision:

This cannot be an easy time for you and your family. A loved one is very ill, hospitalized and unable to make his or her own treatment decisions. Someone else must make them but, who? And how? This brochure is designed to answer those questions.

### **Who makes treatment decisions?**

In Ontario, every person can make his / her own decisions about health care and treatment when they are capable of doing so. If the patient is not capable, a **substitute decision-maker (SDM)** makes decisions about treatment. The **SDM** is usually a close relative. (See Section 1)

### **How does the Substitute Decision Maker decide?**

There are rules in law about making health care decisions for someone else. An **SDM** is asked to make decisions for a patient when the patient is no longer capable of doing so.

**The SDM must make decisions based on prior expressed wishes of the patient. If the SDM does not know of a wish applicable in the situation, or it is impossible to follow the wish, the SDM must act in the patient's best interests.**

#### **Ask yourself:**

**“Has my mother talked about this situation—what did she say?”**

**“Would my mother say she would want this treatment or not?”**

### **Can living wills help?**

Wishes expressed by the patient when the patient was capable can help the **SDM** understand what the patient would want in different situations. Wishes can be expressed in a power of attorney, in other written form (**Living Will**) or orally. Ask whether the patient has expressed wishes concerning treatment.

### **What if you do not know what the patient would want?**

If the **SDM** does not know of a wish applicable to the situation, or if it is impossible to follow the wish, the **SDM** must make the decision about treatment according to the patient's best interests. **“Best interests”** are determined by taking into consideration the values and beliefs that the **SDM** knows the patient held when capable and those treatment decisions that will improve or change the patient's condition for the better.

An **SDM** is entitled to receive information about the nature of the treatment, expected benefits, material risks and side effects, alternative courses of action, and the likely consequences of not having the treatment.

### **What happens when there are disagreements?**

Sometimes, when there is more than one substitute decision-maker, they may disagree on treatment decisions. At the hospital, we are pleased to help resolve these disagreements and there are trained professionals here to help you. If you still cannot agree, there are two choices:

- A public official in the office of The Public Guardian and Trustee will make the decision, or
- The Consent and Capacity Board may appoint a representative to make the decision. The representative may or may not be one of the prior substitute decision-makers.

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### **What is the role of the Consent & Capacity Board?**

Sometimes when a team and SDM do not agree and the team cannot obtain consent a neutral third party called the **Consent and Capacity Board (CCB)** gets involved. In this case an application may be made to the CCB to see if the treatment decision is the right one according to law. This only happens after extensive discussions between **SDMs** and the treatment team have not produced a result that is satisfactory to everyone.