

At the Royal Victoria Regional Health Centre, we are committed to providing exceptional 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 – not only doctors and nurses but also the social workers and chaplain.

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.

#### 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 person with the **power of attorney** for personal care authorizing them 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** or a **children's aid society**.
6. A **parent** who has access rights
7. A **brother** or **sister**.
8. Any other **relative** (related by blood, marriage or adoption).

The Public Guardian and Trustee is the decision maker of last resort if no other person is capable, available or willing to give or refuse consent.

## For Further Information Please contact:

Consent & Capacity Board  
Toronto Regional Office  
Phone Number: 416-327-4142  
Fax Number: 416-327-4207  
[www.ccboard.on.ca](http://www.ccboard.on.ca)

## Additional Resources:

A Guide to Advance Care Planning  
Government of Ontario

Living Will  
U of T Joint Centre for Bioethics  
[www.utoronto.ca/jcb](http://www.utoronto.ca/jcb)

Office of the Public Guardian and Trustee  
[www.attorneygeneral.jus.gov.on.ca](http://www.attorneygeneral.jus.gov.on.ca)

Advocacy Centre for the Elderly  
[www.advocacycentreelderly.org](http://www.advocacycentreelderly.org)

Substitute Decisions Act  
[www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_92s30\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_92s30_e.htm)

Health Care Consent Act of Ontario  
[http://www.e-laws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_96h02\\_e.htm](http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_96h02_e.htm)

The Royal Victoria Health Centre  
Health Ethics Committee

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# The Role of the Substitute Decision Maker (SDM)

## Making decisions for other people



## What does it mean to be a substitute decision-maker?

A family member or friend is hospitalized and unable to make his/her own treatment decisions. Someone else must make them – but who? And how? This brochure is designed to answer those and other questions. We are here to help our patients and their families.

**Please ask 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.

A person is incapable when he/she lacks the ability to understand information relevant to a decision and/or are unable to appreciate the reasonably foreseeable consequences of a decision or absence of a decision.

Capacity can change over time. Changes in a patient's physical, cognitive or mental health status may warrant a capacity re-evaluation.

If the patient is not capable, a **substitute decision-maker (SDM)** makes decisions about treatment. The **SDM** is usually a close relative. The list of **SDMs** is described in this brochure.

### How does the SDM 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:

**“What would the patient say if she could speak with us right now about this treatment choice?”**

**“Would the patient say she would want this treatment or not?”**

### Is a Power of Attorney for Personal Care the same as an Advance Care Directive/Living Will?

No, they are not the same. Advance directives, or living wills, are written documents in which a person can communicate his/her wishes about future care plans. In these documents it is not necessary to name a substitute decision-maker. If a person does name someone as a substitute decision-maker and it meets the formal standard of a Power of Attorney for Personal Care, then it must be treated as such.

### 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.

A **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. **Please ask questions.**

## What happens when there are disagreements?

Sometimes, when there is more than one substitute decision-maker, they disagree on treatment decisions. At the health centre, we are pleased to help resolve these disagreements and there are trained professional here to help you. If you still can't 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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Sometimes, members of the patient's treatment team think the **SDMs** are not making a decision based on the patient's prior expressed wishes or best interests. In this case, the team may apply to the **Consent and Capacity Board** to see if the treatment decision was the right one according to law. This almost never happens. When it does, it is only after extended discussions between **SDMs** and members of the treatment team have not produced a result that is satisfactory to everyone.

**Inspiring Care...**