



Consent and Capacity Board

Applying for a Review of a Finding of Incapacity regarding Admission to a Care Facility and/or Personal Assistance Services (Form A)

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An evaluator may find that you are incapable of making decisions about personal assistance services or admission to a care facility. Someone else, usually a family member, will then be asked to make the decision on your behalf. If this happens, you may be entitled to apply to the Consent and Capacity Board for a review of this finding.

What is a “care facility”?

A care facility is a nursing home or home for the aged or any other residential facility recognized by the government as a care facility.

What is a “personal assistance service”?

A personal assistance service is a support that you may need while in a care facility on a regular basis including help with such things as grooming, eating and drinking, washing and hygiene.

What is an “evaluator”?

An evaluator is a health professional or other person who is authorized to make decisions about your capacity to consent to personal assistance services or admission to a care facility.

Who makes decisions about my personal care services or my admission to a care facility?

If you are capable, you may make your own decisions. If an evaluator finds that you do not understand the relevant information and that you are unable to appreciate what could happen as a result of making or not making a decision, then you will be considered to be incapable.

If you are found to be incapable, the decision will be made for you by someone else according to a priority list in the law. If you have a Guardian of the Person or an Attorney for Personal Care with the required authority, he or she will make the decision for you. If you do not have a Guardian of the Person, an Attorney for Personal Care or a Board appointed Representative, a family member(s) will likely make the decisions. If no one who is authorized to make the decision is available, the Public Guardian and Trustee will be asked to make it.

When can I apply to the Board?

You may apply to the Board for a review of the finding of incapacity if you have been told you are incapable of making decision about personal assistance services or admission to a care facility. You may not apply again if the Board has already decided the issue in the last 6 months.

If you are unsure if you have been found incapable to make decisions about personal assistance services or admission to a care facility ask a health practitioner, care giver or placement coordinator.

If you have questions or concerns, ask a staff member to have someone give you more information.

How do I apply to the Board?

Fill out an application (Form A) and send it to the Board. You may ask someone to help you do this. The form may be available where you found this information sheet. You may also be able to get the form from a hospital or other facility.

If you cannot find an application form or if you do not know how to send the form to the Board, you may call the Board for assistance or check our web site at ccboard.on.ca.

When and where will the hearing be?

You will receive a notice from the Board with the time and place of the hearing. The hearing may take place in the facility where you reside or receive treatment or at some other convenient place. The hearing will be held within 7 days after the Board receives your application unless all the parties consent to an extension.

Do I need a lawyer at the hearing?

It may be a good idea to have a lawyer to represent you but you do not have to have one. You may contact a lawyer on your own or through the Law Society Referral Service, at [The Law Society of Upper Canada](#). Their number is listed in the White Pages under The Law Society of Upper Canada and in the Yellow Pages under Law Society Referral Services. You may be entitled to a Legal Aid lawyer free of charge.

In some cases, the Board can order that legal representation be arranged for you before the hearing is scheduled. If you come to the hearing without a lawyer, the Board may order that legal representation be arranged for you.

Who are the parties to the hearing?

The parties to the hearing are you, the evaluator, the person responsible for your personal assistance services or your admission to the care facility. If appropriate, the Board may name other parties.

What will happen at the hearing?

The Presiding Member will introduce everyone and explain how the hearing will work, who the official parties are and the order in which people will speak. Each party may attend the hearing and invite anyone they want to come. Each party may have a lawyer, call witnesses and bring documents.

The evaluator is required to present information at the hearing to help the Board decide whether you are capable to make decision about personal assistance services or admission to a care facility. You and your lawyer may also present evidence.

Each party as well as the Board members may ask questions of each witness. At the end of the hearing each party will be invited to summarize and the Presiding Member will then end the hearing.

What happens after the hearing is over?

The Board will meet in private to make its decision. It will issue the decision within one day. Written reasons will be issued if any of the parties request them within thirty days of the hearing.

The Board will decide whether you are capable or incapable to make decisions about personal

assistance services or admission to care facility. In making its decision, the Board will consider the test for capacity that is found in Section 4 of the Health Care Consent Act.

If the Board decides that you are capable, you can make your own decisions about personal assistance services or admission to a care facility. If the Board decides that you are incapable, someone else will make these decisions for you.

Can the Board's decision be appealed?

A decision by the Board can be appealed by any party to the Superior Court of Justice.

Contact Us

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