



Consent and Capacity Board

Review of Capacity to Manage Property (Form 18)

Review of Capacity to Manage Property (Form 18)

If someone is concerned that you cannot manage your property, they may ask an assessor to see you. An assessor is a person who is trained to decide if people are capable of managing certain things. If the assessor decides that you are not capable, he or she may issue a certificate of incapacity. This type of an assessment is made under the *Substitute Decisions Act*.

If you are in a psychiatric facility under the *Mental Health Act*, your doctor may find that you are incapable of managing your property while you are in the hospital. Your doctor may also decide to continue this status after your release from hospital.

If you have been found incapable of managing your property by an assessor or a doctor, you may apply to the Consent and Capacity Board for a review of your capacity. There are two types of applications, both called "Form 18". You will apply under the *Mental Health Act* if a Doctor found you incapable when you were in a psychiatric hospital. Otherwise, you would apply under the *Substitute Decisions Act*.

What happens after a finding of incapacity is made?

When a doctor in a psychiatric facility or an assessor decides that you are not capable of managing your property, they send a notice to the Public Guardian and Trustee who then becomes your statutory guardian. If you have a Power of Attorney for Property, that person would then take over your property management. Under certain conditions, it is possible for a family member or friend or someone else to apply to the Public Guardian and Trustee to take over as your statutory guardian.

How can the statutory guardianship be ended?

There are a number of ways. Some of these are as follows:

- An assessor can decide that you are now capable of managing your property. You may ask to see an assessor if you have not been assessed for at least six months.
- If you have a statutory guardianship as the result of a decision by a doctor in a psychiatric facility, a doctor may assess you and decide that you are now capable.
- You can apply to the Consent and Capacity Board for a hearing to review the finding of incapacity.
- You can ask a court to terminate the statutory guardianship.

When can I apply to the Board?

If you are a patient in a psychiatric facility, you must apply to the Board before you are discharged.

You may only apply if you have been assessed in the past six months (this rule does not apply if you are a patient in a psychiatric facility and a doctor signed a certificate of incapacity during your current admission.)

You may not apply more than once every six months.

How do I apply to the Board?

Fill out an application (Form 18) and send it to the Board. There are two types of application: if you were found incapable when you were in a psychiatric facility, use the application under the *Mental Health Act*. Otherwise, use the application under the *Substitute Decisions Act*. You may ask someone to help you do this. The forms may be available where you found this information

sheet. You may also be able to get the forms from a hospital or other facility. If you cannot find a form you may call the Board for assistance or check our web site at www.ccboard.on.ca.

How do I find a rights adviser?

Rights advisers are available to patients in psychiatric facilities. If you are a psychiatric patient and you want to apply for a hearing or if you have any questions, it is a good idea to talk to a rights adviser. A health practitioner or someone else working in the hospital can help you to contact the rights adviser.

Do I need a lawyer at the hearing?

It may be a good idea to have a lawyer 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. If you are in a psychiatric facility, you may also ask to speak with a rights adviser. The rights adviser can explain your rights, help you to apply to the Board and help you find a lawyer. You may be entitled to a 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.

When & where will the hearing be?

You will receive a notice from the Board with the time and place of the hearing. The hearing will take place where you reside or receive treatment or at some other convenient place. The hearing will usually be held within one week after the Board receives your application.

Who manages my property until the hearing?

Your statutory guardian will continue to manage your property until the Board has made its decision.

What will happen at the hearing?

Each party may attend the hearing and invite whomever they wish to come. Each party may have a lawyer, call witnesses and bring documents.

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 meeting.

What happens after the hearing?

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.

If the Board decides that you are capable of managing your property, it will inform you, your doctor and the Public Guardian and Trustee. If this happens, you will again be in charge of managing your own property unless someone appeals the Board's decision. If there is an appeal, the Public Guardian and Trustee will continue to manage your property until the appeal is resolved.

If the Board decides that you are incapable of managing your property, the statutory guardianship will continue.

Can I appeal the Board's decision?

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

Contact Us

CCB Numbers

Greater Toronto Area

Phone: (416) 327-4142

Fax: (416) 924-8873

Outside Greater Toronto Area

Phone: 1-866-777-7391 (Toll Free)

Fax: 1-866-777-7273 (Toll Free)

