



# **Consent and Capacity Board**

---

## **Applying for a Review of Capacity to Make Decisions with Respect to Treatment (Form A)**

## **Applying for a Review of Capacity to Make Decisions with Respect to Treatment: Information for Persons who are Patients in a Psychiatric Facility (Form A)**

A health practitioner may find that you are incapable of making decision about treatment. Someone else, usually a family member, will then be asked to consent to the treatment on your behalf. If this happens, you may be entitled to apply to the Consent and Capacity Board for a hearing to review this finding.

### **Who makes decisions about my treatment?**

If you are capable, you may make your own treatment decisions. If your health practitioner believes that you do not understand the relevant information or 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, someone else, usually a member of your family, will be asked to make the decision for you. If you have a Guardian of the Person or an Attorney for Personal Care, he or she will make the decision for you. If you do not, you may apply to the Board to have a friend appointed to make decisions for you. If no one who is authorized to make the decision is available, the Public Guardian and Trustee will be asked to make the decision.

### **How will I know that I have been found incapable?**

Everyone, regardless of age, is entitled to make their own treatment decisions if they are capable of doing so. If you are being treated or you are about to be treated without your consent it may be that you have been found to be incapable of consenting to the treatment. Ask your health practitioner.

### **Health practitioner's responsibilities**

- √ If you have been found incapable, your health practitioner must provide you with information specified in guidelines set for his or her profession.
- √ Treatment must not be administered without consent which may have been obtained from another person on your behalf because the health practitioner found you incapable to consent yourself.
- √ In certain unique emergency situations, consent may not be necessary.

### **How do I apply to the Board?**

If you are found to be incapable, a rights adviser should be sent to see you. If the rights adviser does not come, if you have any questions or if you want to talk to a rights adviser at some other time, you can ask a staff person to help you contact one. The rights adviser can help you to fill out an application (Form A) and send it to the Board. If you wish, the rights adviser can help you to find a lawyer.

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 [www.ccboard.on.ca](http://www.ccboard.on.ca). If you are under 18 years of age you may call the Child and Family Service Advocacy Office at 1-800-263-2841.

### **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 Lawyer Referral Service. Their number is listed in the White Pages under The Law Society of Upper Canada and in the Yellow Pages under Lawyer Referral Services. 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 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.

### **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 will be held at the hospital. The hearing will usually be held within one week after the Board receives your application.

### **What will happen at the hearing?**

Each party may attend the hearing and invite anyone they wish. 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 and will issue the decision within one day. The Board may also provide written reasons explaining its decision. Written reasons will be issued if any of the parties request them. This request must be made within thirty days of the hearing.

If the Board decides that you are capable, you can make your own treatment decisions. If the Board decides that you are incapable, someone else will make these decisions for you.

### **Can I appeal the Board's decision?**

You can appeal the decision by the Board to the Superior Court of Justice.

## **Applying for a Review of Capacity to Make Decisions with Respect to Treatment: Information for Persons who are not Patients in a Psychiatric Facility (Form A)**

A health practitioner may find that you are incapable of consenting to treatment or a particular kind of treatment. Someone else, usually a family member, will then be asked to consent to the treatment on your behalf. If this happens, you may be entitled to apply to the Consent and Capacity Board for a review of this finding.

### **Who makes decisions about my treatment?**

If you are capable, you may make your own treatment decisions. If your health practitioner believes that you do not understand the relevant information or that you are unable to appreciate what could happen as a result of making or not making a decision, he or she is required to make a finding of incapacity. If you are found to be incapable, someone else, usually a member of your family, will be asked to make the decision for you.

If you have a Guardian of the Person or an Attorney for Personal Care, he or she will make the decision for you. If you do not, you may apply to the Board to have a friend appointed to make decisions for you.

If no one who is authorized to make the decision is available, the Public Guardian and Trustee will be asked to make it.

### **What are the health practitioner's responsibilities?**

- √ If you have been found incapable, your health practitioner must provide you with information specified in guidelines set for his or her profession.
- √ Treatment must not be administered without consent which may have been obtained from another person on your behalf because the health practitioner found you incapable to consent yourself.
- √ In certain unique emergency situations, consent may not be necessary.

### **How will I know that I have been found incapable?**

Everyone, regardless of age, is entitled to make their own treatment decisions if they are capable of doing so. If you are being treated or you are about to be treated without your consent it may be that you have been found to be incapable of consenting to the treatment. Ask your health practitioner.

### **How do I apply to the Board?**

Fill out an application (Form A) and fax 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 a form you may call the Board for help or check our web site at [www.ccboard.on.ca](http://www.ccboard.on.ca).

If you are under 18 years of age you may call the Child and Family Service Advocacy Office at 1-800-263-2841 for assistance.

### **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 Lawyer Referral Service. Their number is listed in the White Pages under The Law Society of Upper Canada and in the Yellow Pages under Lawyer 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.

If you come to the hearing without a lawyer, the Board may order that legal representation be arranged for you.

### **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 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 are the parties to the hearing?**

You and the health practitioner who made the finding of incapacity are each parties. The Board may also name other parties.

### **What will happen at the hearing?**

Each party may attend the hearing and invite anyone they want 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 meeting will end.

### **What happens after the hearing?**

The Board will meet in private to make its decision and will issue the decision within one day. The Board may also provide written reasons explaining its decision. Written reasons will be issued if any of the parties request them. This request must be made within thirty days of the hearing.

If the Board decides that you are capable, you can make your own treatment decisions. If the Board decides that you are incapable, someone else will make these decisions for you.

### **Can I appeal the Board's decision?**

You can appeal the decision by the Board to the Superior Court of Justice.

## Contact Us

If you would like to contact the Board or fax an application, please use the numbers below:

CCB Numbers
<b>Greater Toronto Area</b> Phone: (416) 924-4961 Fax: (416) 924-8873
<b>Outside Greater Toronto Area</b> Phone: 1-866-777-7391 (Toll Free) Fax: 1-866-777-7273 (Toll Free)

