



Consent and Capacity Board

Applying to Have a Representative Appointed to Make Decisions with Respect to Treatment, Admission to a Care Facility and/or Personal Assistance Services (Form B)

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If you are at least sixteen years old and have been found incapable of making decisions with respect to treatment, admission to a care facility or personal assistance services you may be able to apply to the Consent and Capacity Board for a hearing to have a representative appointed to give or refuse consent on your behalf. The proposed representative must be at least 16 years of age and be capable of making the required decisions. The Board cannot appoint a representative if you already have a court appointed guardian of the person or attorney for personal care with the authority to make the required decision.

Whenever an application of this type is received, the law provides that the patient is deemed to have applied for a review of his or her capacity to make the relevant decision. This does not apply if the Board has determined this issue of capacity within the previous six months.

What can a representative do?

Depending on the circumstances, the Board may appoint the representative to make just the decision currently required or it may authorize the representative to make a wider range of decisions related to treatment, or admission to a care facility, or personal assistance services.

Unless you object, the Board may impose conditions or time limits on the appointment or may appoint someone other than the person you originally suggest. The Board may revoke or amend the appointment at any time.

What will happen if I don't apply to have a representative appointed?

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 to make treatment, admission to a care facility and/or personal assistance services decisions, 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 is available and willing to assume the responsibility or, sometimes, if there is more than one person and they disagree, the decision will be made by the Public Guardian and Trustee.

Why would I apply?

The law determines who will be asked to make decisions on your behalf. If you would like someone else to have that responsibility, you can apply to the Board to have a different person appointed.

How do I apply?

Fill out an application (Form B) and send it to the Board. You can fill out the form by yourself or 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 at a hospital, other facility or from a rights adviser. 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.

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.

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 take place in the hospital. 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 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 Service. 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.

Who are the parties to the hearing?

The parties are you, the proposed representative, your spouse, partner, parents, children and brothers and sisters. If you are a young person and someone is legally authorized to make treatment decisions for you in place of your parents, that person will also be a party to the hearing. Depending on the issue in question, a health practitioner or other service provider will also be a party to the hearing. 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.

You and/or your lawyer must present information at the hearing to help the Board decide whether to appoint a representative to make your treatment, admission to a care facility and/or personal assistance services decisions.

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 to appoint or not appoint a representative to make your treatment, admission to a care facility and/or personal assistance services decisions. In making its decision, the Board will consider the criteria in Sections 33, 51, and/or 66 of the Health Care Consent Act.

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

CCB Numbers

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