



# Consent and Capacity Board

---

## **Applying to Be Appointed a Representative to Make Decision(s) with Respect to Treatment, Admission to a Care Facility and/or Personal Assistance Services (Form C)**

## **Applying to Be Appointed a Representative to Make Decision(s) with Respect to Treatment, Admission to a Care Facility and/or Personal Assistance Services (Form C)**

If a person has been found incapable of making decisions with respect to treatment, admission to a care facility you may apply to the Consent and Capacity Board to be appointed as the representative to give or refuse consent on that person's behalf.

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.

### **Who may apply to be appointed as a representative?**

Anyone who is at least 16 years old and capable with respect to the required decisions may apply to be appointed as a representative. The Board will only consider appointing you if a relevant finding of incapacity has been made and if the incapable person does not object.

A representative may not be appointed if the incapable person already has a guardian of the person or attorney for personal care with the authority to make the required decision or decisions.

### **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 or personal assistance services.

Unless the person who has been found to be incapable objects, the Board may impose conditions or time limits on the appointment or may appoint someone other than you. The Board may amend or revoke the appointment at any time.

### **What will happen if a representative is not appointed?**

If a person is incapable of making a decision with respect to treatment, admission to a care facility and/or personal assistance services the decision may be made by someone else according to a priority list in the law. If the incapable person has a Guardian of the Person or an Attorney for Personal Care with the required authority, he or she will make the decision. If the incapable person does 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.

### **How do I apply?**

Fill out an application (Form C) and send it to the Board. The form may be available where you found this information sheet. You may also be able to get the form at 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](http://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 will take place in the facility where the incapable person resides or receives treatment or at some

other place close to the incapable person. 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.

In some cases, the Board can order that legal representation be arranged for the incapable person before the hearing is scheduled. If the incapable person comes to the hearing without a lawyer, the Board may order that legal representation be arranged for him/her.

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

The parties to the hearing are you, the incapable person and her or his spouse, partner, parents, children and brothers and sisters and anyone else who is authorized to make treatment decisions for the incapable person in place of his or her parents. 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 treatment, admission to a care facility and/or personal assistance services decisions for the incapable person.

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 treatment, admission to a care facility and/or personal assistance services decisions for the incapable person. 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

#### Greater Toronto Area

**Phone:** (416) 327-4142

**TTY/TDD:** (416) 326-7TTY or (416) 326-7889

**Fax:** (416) 924-8873

#### Outside Greater Toronto Area

**Phone:** 1-866-777-7391

**TTY/TDD:** 1-877-301-0TTY or 1-877-301-0889 (Toll Free)

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