



# **Consent and Capacity Board**

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## **Applying to the Board for Directions (Form D)**

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This application may only be made if the person previously expressed wishes with respect to the matter but you are uncertain about the nature of the wishes or their validity.

You may be able to apply to the Consent and Capacity Board for directions if:

- You have assumed responsibility for giving or refusing consent on behalf of a person who is incapable with respect to treatment, a personal assistance service or admission to a care facility.
- You are the health care provider or the person responsible for authorizing admission to a care facility or the service provider responsible for providing the personal assistance service for the incapable person and you have notified the person who assumed responsibility for giving or refusing consent before the application is made.

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.

### In what circumstances may I ask for directions?

You may apply for directions if you are aware of a past wish expressed by the incapable person with respect to treatment, a personal assistance service or admission to a care facility and any of the following situations apply:

- The wish is not clear;
- It is not clear if the wish applies to present circumstances;  
It is not clear if the person was capable when the wish was expressed; or
- It is not clear if the wish was expressed when the person was at least 16 years old.

### How do I apply to the Board?

Fill out an application (Form D) 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 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 the incapable person, the incapable person's substitute decision maker and the health practitioner or other service provider. 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 to give directions.

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 may decide to give directions regarding 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 36, 53, and/or 67 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)

