



Consent and Capacity Board

Preparing for a Board Hearing: Information for the Incapable Person or Patient

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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. The rights adviser can explain your rights, help you to apply to the Board and help you find a lawyer. You may also 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.

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 take place in the facility where you reside or receive treatment or at some other place convenient to you. The hearing will be held within 7 days after the Board receives your application unless all the parties consent to an extension.

What should I do before the hearing?

If you have a lawyer or someone else representing you, meet with that person as soon as you can. Be sure that you understand what the hearing is about. Think about what you want to accomplish at the hearing and if there are other ways of achieving your goals. Think about what you want to say, what evidence you want to present and consider whether to call any witnesses.

Am I entitled to see the documents that will be used at the hearing?

Yes. You and your lawyer or agent must be allowed to examine and copy any and all documents that will be used at the hearing.

You must also be allowed to see and copy reports if their contents will be given as evidence even if the report itself is not going to be shown to the Board. The Mental Health Act defines very limited circumstances in which a person may be denied access to his or her records.

What about medical and health records that will not be used at the hearing?

Before the hearing, your lawyer or agent is normally entitled to see and copy (at your expense) all of your medical and health records. If you are capable of accessing the record, you are also entitled to see and copy (at your expense) these materials.

What will happen at the hearing?

Each party may attend the hearing and invite anyone they want to come. The hearing is open to the public so anyone may attend to observe. 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 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 hearing.

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.

Can I appeal the Board's decision?

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

Contact Us

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