

# Making Health Care Decisions for Others

## Who is the Substitute Decision-Maker (SDM)?

## The SDM's Role

## How Decisions Are Made

### The Role of Substitute Decision-Maker (SDM)

A capable person makes his or her own *informed* treatment or care decisions. Informed decision means the person understands the decision to be made, the risks and benefits, and appreciates the consequences of the decision. Capacity is determined for each decision.

When a person is found to lack the capacity to make the decision, the highest ranking SDM is asked to do it.

### How does SDM Decide?

Substitute Decision-Makers must follow legal rules when asked to make a care or treatment decision for someone else. A decision is made according to:

1. Prior wishes of the person when he/she was capable OR if these wishes are not known, the decision is based on:
2. Best interests of the person

#### 1. Prior Capable Wishes

A capable person may express wishes with respect to future treatment and care decisions. The SDM must follow these wishes when possible. Prior capable wishes may be verbally expressed or written (advance directive, living will, in a power of attorney document or other). The most recently expressed wishes supersede earlier wishes.

To depart from a prior capable wish, or if there is a disagreement about the wish, the SDM or health care professional can apply to the Consent and Capacity Board to seek direction.

If it is impossible in the circumstances to follow the wish, or the SDM does not know of a wish applicable to the situation, the SDM must make the decision according to the person's best interests.

#### 2. Best Interests of the Person

1. The values and beliefs of the person
2. Any current wishes the incapable person may have
3. Whether the treatment is likely to:
  - i. Improve the condition or well-being
  - ii. Prevent the condition or well-being from deteriorating
  - iii. Reduce the extent or rate of deterioration
4. Whether the condition or well-being is likely to improve, remain the same or deteriorate without the treatment
5. If the benefit outweighs the risk of harm
6. Whether a less restrictive or intrusive treatment would be as beneficial as the treatment proposed

If you are the SDM, it is important to understand that you are NOT being asked to make the decision you feel would be best for you, or the decision you would make for yourself.

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### Ask Yourself:

What would the patient say if he or she could speak with us right now about this treatment decision?

What would be the patient's wishes about his or her care?

Would the patient want this treatment?

### Who is the SDM?

#### Hierarchy of Substitute Decision-Makers

The highest-ranking person in the hierarchy is asked to be the SDM.

- a person's court-appointed guardian
- an attorney for personal care
- a representative appointed by the Consent and Capacity Board
- a spouse or partner
- children over 16 years of age and parents
- parent with right of access only
- siblings over 16 years of age
- any other relative over 16 years of age (related by blood, marriage or adoption)

The Public Guardian and Trustee (Treatment Decisions Officer) is the decision-maker of last resort if no other person in the hierarchy is capable, available or willing.

The SDM must be willing, capable, and available to assume responsibility for treatment or care decisions. The SDM has the right to decline this responsibility.

Family situations are unique. The SDM hierarchy may be complex in your family. Contact your social worker to discuss your situation or for further information.

### Contact Information

If you would like more information, or an opportunity to discuss substitute decision-making, contact:

Program Social Worker:  
519-646-6100, Ext.: \_\_\_\_\_

Clinical Ethicist:  
519-646-6100, Ext.: 42251

Patient Relations Coordinator:  
519-646-6100, Ext.: 64727

### Reference Information

Health Care Consent and Substitute Decisions Act

[http://www.elaws.gov.on.ca/html/statutes/english/elaws\\_statutes\\_96ho2\\_e.htm](http://www.elaws.gov.on.ca/html/statutes/english/elaws_statutes_96ho2_e.htm)

Ministry of Attorney General: Guide to the Substitute Decisions Act

<http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/sdaact.asp>

Consent and Capacity Board

1-866-777-7391 (toll free)

[www.ccboard.on.ca](http://www.ccboard.on.ca)

(This is the FACT sheet version of the 3-panel brochure)

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