

Best Interests

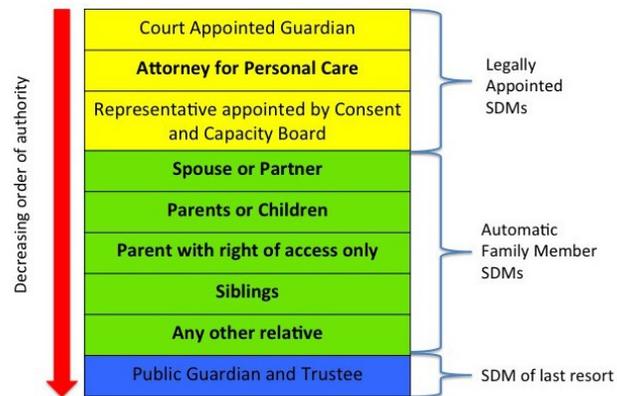
If there are no wishes that apply or if what the person wished for is not possible, then think about **Best Interests**.

- Will the treatment or plan:
 - ⤴ Improve the current condition or well-being?
 - ⤴ Prevent worsening of the current condition or well-being?
 - ⤴ Slow down the process of getting worse?
- Will the person get better, worse or stay the same if the treatment or plan is not followed?
- Do the benefits outweigh the risks of harm? (**Risks/benefits as the person would consider them.)
- Is there a less aggressive option that might be as beneficial to the person?

Who is/are the legal SDM(s)?

In Ontario, who your SDM is, is defined automatically by the law.

Healthcare providers must get consent from the person who is highest on this list:



Ontario's Health Care Consent Act, 1996

The SDM must be:

- Willing to accept the role of an SDM.
- Available when decisions need to be made.
- Capable of providing consent.
- 16 years or older.
- Not prohibited by court order or separation agreement.

Notes about this list

Most people will have the family member highest on the list as their SDM unless they have appointed an Attorney for Personal Care.

If there are multiple family members at the same level (e.g. several children or siblings) then all must be asked if they want to be an SDM. **All participating SDMs** must agree on the decisions. However, as a group, they may choose one or more people to speak for them.

This will also apply if multiple Attorneys for Personal Care have been appointed.

Informed Consent

- Providing informed consent is your role as the person's SDM **if s/he is not capable of making healthcare decisions**.
- The person may have written their wishes down, but it is your role to interpret these wishes by following the rules. (See the section on [Making a Substituted Decision](#) to learn more.)
- The person's healthcare provider will talk to you, give you information, and suggest a treatment or plan.
- Ask questions to make sure you understand.
- Make a decision, and then give or refuse consent for the treatment or plan.

Making Healthcare Decisions for Others:

A Guide for Substitute Decision Makers (SDM)

Revised February 2016

What you will learn in in this guide

- Your important role as a Substitute Decision-Maker (SDM).
- Information about Ontario laws around consent, capacity, and substitute decision-making.
- How to prepare to have conversations with:
 - ⇒ The person you will be making decisions for.
 - ⇒ Their healthcare providers.

What is your role as an SDM?

- You will be asked to make healthcare decisions **ONLY when the person is no longer capable of making a healthcare decision for him/herself.** (See the section on [Capacity](#) to learn more.)
- If the person is still capable, your role will be supportive. It can be very helpful to the person to have you as their SDM with them, to listen to the health information that is being provided and to ask questions.
- When the person is capable, you will want to talk with them to understand their values, beliefs, and what is important to them. You want to make sure that you have all the information you need to make the best decision for them if you ever have to.
- When the person is incapable of making a healthcare decision a healthcare provider will ask you to provide consent for a decision.
- Your role is to make decisions the way the person would have made them for him or herself.

What is capacity for healthcare decisions?

It means that you are able to do BOTH of these:

1. **Understand** all of the information that you need to be able to make a decision;
- AND**
2. **Appreciate** the likely results of making the decision. (How it might help or harm you, what will likely happen if you decide to have it or not to have it.)

Capacity is **decision** and **time** specific:

Decision specific: A person may not be capable of making a decision about surgery. But they may still be capable of making a decision about medication.

Time specific: A person may not be capable of making a decision today but will be capable tomorrow.

Some examples of temporary times might be:

- Alcohol or drug intoxication.
- Medication side effects.
- Infection causing confusion.

When will I be asked to make healthcare decisions as an SDM?

- Only when the person does not have the capacity to make a specific healthcare decision.

Some examples of these times might be:

- During surgery or any time when the person is unconscious.
- In advanced dementia.
- During the temporary time examples above.

If the person becomes capable, they will again make their own healthcare decisions.

Making a Substituted Decision

Making healthcare decisions for other people can be challenging, especially when you have to do this during difficult times.

The person you have to make decisions for might be someone very close to you. It could be someone you care a lot about and want to look after.

It might help to know that there are rules that give you instructions on how to make these decisions. You must consider the person's:

1. **Prior Capable Wishes**
2. **Best Interests**

If the person has had an advance care planning conversation, you may have discussed some of their prior capable wishes. You may also have discussed their values and beliefs that will help you think about best interests in the current situation.

If the person is still capable and you are preparing for your future role as an SDM, now is a good time to talk about their values, beliefs, and wishes.

The person can help you understand how you should make decisions for them in the future, based on their values and beliefs.

Prior Capable Wishes

- Think of anything the person may have said that applies to the decision you have to make.
- It could have been something they said, wrote down, or recorded on a video.
- Whatever information is the most recent is the most important, even if it's not written down.