

Screening Guideline for Ontario Health Care Consent (HCC) and Advance Care Planning (ACP) Materials

Date reviewed: _____

Material description: _____

Target audience: Leadership/ Administration Healthcare Providers General Public Research

Other (Please indicate): _____

Material details: Date created: _____

Intended purpose: Educational Policy development Research Communication/ Raising Awareness etc.

Other (Please indicate): _____

Material developers: _____ **Province/Country of origin:** _____

Using the scale below, please indicate the extent to which the content of the material reflects the Ontario legal framework for HCC and ACP where:

1 = Limited reflection 2 = Moderate reflection 3 = Considerable reflection 4 = Thorough reflection

Note: This reflective screening guideline and tool are intended to support those in positions of leadership around HCC and ACP in Ontario. The Ontario legal framework must be reflective in all HCC ACP work and projects.

Category/Criteria	1	2	3	4	Comments
Does the material's information reflect an accurate representation of "advance care planning" in Ontario (e.g. wishes, process etc.)?					
Does the material's information reflect an accurate representation of HCC (e.g. informed, based upon current health condition, plan of treatment)?					
Does the material clearly delineate the difference between ACP and HCC and its connection?					
Is the language used effective to cue and reinforce the provider or public role in HCC or communication of wishes for the intended target audience?					
Does the material provide direction that is consistent and accurate for the intended target audience?					
Does the material's content provide the pertinent knowledge to its intended target audience?					
Is the material easy to follow? (i.e. does it consider literacy, culture etc.)					

Recommendation: Ratings of 3 or less indicate a need to access accurate Ontario specific materials or make adjustments to existing materials to meet the ON legal framework. Ontario specific materials and information can be found at: [Speak Up Start the conversation about end-of-life care Provincial Resources](#) & [Hospice Palliative Care Ontario \(HPCO\) Educational Resources](#)

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Important Words	Below is a listing of common words, concepts as well as misconceptions about HCC & ACP in Ontario. Shaded boxes indicate a call to action: i.e. learn more about it, correct and update documents, provide education and reinforce appropriate language.
Advance Directive, Directive, Living Will	The terms “Advanced Care Directives”, “Directive”, “Advance Care Plan”, and “Living Will” are not Ontario terminology nor used within the law. These terms should not be used in any policies, conversations and/or documents.
Written down, Document, Documented	Advance care planning (ACP) is a guide to the incapable person’s Substitute Decision Maker (SDM) not health care providers (HCP). ACPs are not informed consents. Health practitioners are required by law to get an informed consent from a person (patient or incapable person’s SDM) before any treatment except in an emergency. (sect. 10 Health Care Consent Act) The only time advance wishes may be used directly by a health provider is in the case of an emergency when it is not possible to get an informed consent from the patient or appropriate SDM. Focusing on the writing of wishes (ACP) contributes to the mistaken belief that the document holds legal power. In Ontario wishes may be communicated in writing, orally, or by alternative means (video, communication board etc.)
Next of Kin	Many forms refer to a patient’s “next of kin” or “POA” rather than the patients SDM if he or she should become incapable for making decisions regarding treatment. Often health practitioners refer to a patient’s ‘next of kin’, as if this were a legal category of SDM. These terms should not be used in any policies, conversations and/or documents
Expression of Wishes, Wishes	ACP involves discussions about ‘wishes’ not ‘choices’ or ‘decisions’. Wishes, values, beliefs need not be about specific treatments but can be about what they think is quality of life – anything that would help the SDM feel confident when called on to make decisions for an incapable patient. Most APCs wishes are NOT in context of the patient’s condition. The patient may have expressed a wish without having any information of their condition(s) or possible options for treatment. They may base it on something they saw on TV or on an experience a friend or family member had. In other words, ACP is not a <i>treatment plan</i> , is not a <i>plan of care</i> and is not <i>goals of care</i> . It is an expression of ones wishes only and not informed consent needed to implement treatment plans.
POA, Power of Attorney	The document is called the Power of Attorney for Personal Care (POAPC). The person(s) named within the POAPC is called an “attorney” which is a type of SDM. It is important to reference the POAPC and not just a Power of Attorney (POA) since there are two types of POAs. The only one relevant to health decision making is the POAPC. Only a POAPC, which is a form of an ACP, may name or appoint an SDM.
Hierarchy of Substitute Decision Maker(s) (SDM(s))	A patient needs to understand who would be his/her SDM for health care if he/she became mentally incapable to make health decisions. Every patient automatically has a person who will have legal authority to act as his/her SDM if they become incapable. The HCCA states that a Patient’s SDM will be the person or persons who are highest ranked on the HIERARCHY of SDMs list that legislates who is to be the SDM. A patient may decide they are satisfied having the individual(s) with the highest ranking in the hierarchy to act on their behalf should they become incapable, or they may choose someone else through naming or appointing in a POAPC. SDMs CANNOT ACP, but can <u>only</u> give or refuse consent to treatment or make other health decision for the incapable patient.
Health Care Consent (Informed Consent)	Obtaining informed consent (IC) is more than ticking a box on a form. It involves a rich and robust discussion between a patient (or the incapable patient’s SDM) and health care provider(s). Informed consent is a DECISION about health care obtained before treatment commences after communication about the patient’s condition, treatment options, and the risks, benefits, side effects, alternatives and what would happen if the patient refused the treatment has taken place. IC includes planning about care (immediate care options but also setting goals for care and future plans related to the patients’ present health condition).

References for the above information can be found within: the Health Care Consent Act, the Substitute Decisions Act and the Research Paper for the Law Commission of Ontario: Health Care Consent and Advance Care Planning in Ontario, J.Wahl, , B. Gray (Advocacy Centre for the Elderly) M.J. Dykeman (Dykeman, Dewhurst, O’Brien LLP) <http://lco-cdo.org/en/capacity-guardianship-commissioned-paper-ace-ddo>
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