

I N S T R U C T I O N S

This form must be filled out by the **care providers** who make a substitute decision for a care recipient for major health care or admission to a care facility.

The Board will conduct a paper review of all decisions by last resort decision-makers for major health care and consent to live in a care facility. Please provide complete information on this form to assist the Board in its review. The Board may hold a hearing if it considers it necessary after reviewing this form. For more information, see "Relevant information from the *Care and Consent Act*," attached to this form.

Copies of this form must be sent to the:

- Capability and Consent Board (fax 867-633-6954).

Care recipient _____
Print full name

_____ Address Phone number

Is the care recipient currently in a care facility or a hospital?

- No
- Yes Name of facility _____ Phone number _____

Care decision made on behalf of the care recipient (*Specify all that apply*):

- Major health care _____
- Live in a care facility _____

Substitute decision made _____
Day/month/year Time (a.m. or p.m.)

Care provider responsible for obtaining consent and assessing incapability to consent:

Print name	Profession or title
Clinic or facility or program	Address
Telephone	Fax

1. Please substantiate your determination that the care recipient was incapable to give or refuse consent to the above care decision. (*You may attach assessment notes.*)

a) Care provider acting as last resort substitute decision-maker, if different from above.

Print name	Profession or title
Clinic or facility or program	Address
Telephone	Fax

b) Health care provider acting as last resort substitute decision-maker.

Print name	Profession or title
Clinic or facility or program	Address
Telephone	Fax

c) Second health care provider acting as last resort substitute decision-maker for consent to major health care.

Print name	Profession or title
Clinic or facility or program	Address
Telephone	Fax

2. Please explain attempts to locate a qualified substitute decision-maker for the care recipient.

3. Please explain why this care decision needed to be made at this time.

Relevant information from the *Care Consent Act (CCA)*

1. Definitions

Major health care means major surgery, any treatment involving a general anesthetic, major diagnostic or investigative procedures, radiation therapy, intravenous chemotherapy, peritoneal and kidney dialysis, laser surgery and other health care as set out in the *Care Consent Act* that is only permitted through express prior consent from the care recipient. (s. 1, *CCA*)

Note that major health care must not be provided until 48 hours after the substitute decision-maker has made the decision. (s. 11, *CCA*)

Care facilities are continuing care facilities operated by Health and Social Services, and residential facilities for adults with disabilities. (s. 1, *CCA*)

2. Last resort substitute decision-makers

Where there is no qualified person available to give substitute consent for care, substitute consent may be given by the care provider and

- one other person who is a health care provider; or
- in the case of major health care, two other persons who are health care providers. (s. 13(1), *CCA*)

A last resort substitute decision-maker must:

- not have a conflict with the care recipient that raises a reasonable doubt whether the person will comply with the duties of a substitute decision-maker;
- not be prevented from acting as a substitute decision-maker by an order of a court; and
- be willing to comply with the duties of a substitute decision-maker outlined in the *Care Consent Act* and listed below. (s. 13(2), *CCA*)

3. Duties of a substitute decision-maker

Before giving or refusing consent, a substitute decision-maker must consult with the care recipient, to the extent that is reasonable. (s. 18, *CCA*)

If a substitute decision-maker does not know the wishes, beliefs, or values of the care recipient, they shall, before making a decision requiring knowledge of them, make a reasonable effort to ascertain them. In doing so, the substitute decision-maker

- shall consult with any friend or relative of the care recipient who asks to assist; and
- may consult with any person whom the substitute decision-maker reasonably believes has relevant information. (s. 19, *CCA*)

A substitute decision-maker shall give or refuse consent in accordance with the wishes of the care recipient except when:

- the wish was not expressed by the care recipient while capable and after attaining the age of 16;
- compliance with the wish is impossible;
- the substitute decision-maker believes the care recipient would not still act on the wish if capable because of changes in knowledge, technology, or practice in the provision of care not foreseen by the care recipient. (s. 20(1), *CCA*)

Where a wish does not clearly anticipate the specific circumstances that exist, it is to be used for guidance as to the beliefs and values of the person making the wish. (s. 20(3), *CCA*)

If wishes are not known or not applicable, the substitute decision-maker shall give or refuse consent in accordance with the beliefs and values of the care recipient. (s. 20(4), *CCA*)

Where beliefs and values remain unknown despite attempts to ascertain them, the substitute decision-maker shall give or refuse consent in accordance with the best interests of the care recipient. (s. 20(5), *CCA*)

When deciding whether it is in the care recipient's best interests to give or refuse consent, the substitute decision-maker must consider:

- the care recipient's current wishes;
- whether the care recipient's condition or well-being is likely to improve without the proposed care or is not likely to deteriorate without it;
- whether the benefit the care recipient is expected to obtain from the proposed care is greater than the risk of harm or other negative consequences; and
- whether the benefit of a less restrictive or less intrusive form of available care is greater than the risk of harm or other negative consequences. (s. 20(6), *CCA*)