



# Making Healthcare Decisions For Other People

UHN



## Substitute Decision Making When Patients Cannot Make Decisions for Themselves

### Who are Substitute Decision-Makers (SDM)?

The SDM is usually a close relative. Healthcare law in Canada gives a list in ranked order of people who may give or refuse consent. For example, if any person does not want to or cannot be the SDM, the next person down on the list who can and does want to will be the SDM. We can help you determine who is the SDM.

#### Substitute Decision Makers List (Health Care Consent Act 1996)

1. A guardian with the authority to give or refuse consent to treatment
2. An attorney for personal care with the authority to give or refuse consent to treatment
3. A representative appointed by the Consent & Capacity Board
4. A spouse or partner
5. A child or parent or a children's aid society
6. A parent who has only a right of access
7. A brother or sister (all equally)
8. Any other relative (related by blood, marriage or adoption)
9. The Public Guardian and Trustee is the decision maker of last resort if no other person is capable, available or willing to give or refuse consent.

Please visit the UHN Patient Education website for more health information: [www.uhnpatienteducation.ca](http://www.uhnpatienteducation.ca)  
© 2012 University Health Network. All rights reserved.  
This information is to be used for informational purposes only and is not intended as a substitute for professional medical advice, diagnosis or treatment. Please consult your health care provider for advice about a specific medical condition. A single copy of these materials may be reprinted for non-commercial personal use only.

Author: Bioethics / Patient Relations / Legal Affairs  
Created: 10/2005 (04/2012)  
Form: D-5178

C034-D

## How Does the Substitute Decision-Maker (SDM) Decide?

There are rules in law about making health care decisions for someone else. A Substitute Decision-Maker (SDM) must make decisions based on:

- **The patient's previously expressed wishes, or**
- **The patient's best interests, if the SDM does not know the patient's wishes.**
  - **The SDM should consider the patient's values and beliefs.**
  - **The SDM should talk with the healthcare team about whether the treatment will improve the patient's condition or well-being, prevent it from getting worse or slow the worsening of the condition.**

If you are an SDM ask yourself:

“Would the patient say she wants this treatment or not if she could speak to us right now?”

“What is important to this person in this type of situation?”

## Living Wills / Advance Directives can help

Living Wills or Advance Directives can help the SDM understand what the patient would want in different situations. They record a person's healthcare wishes. It is important for patients to talk about their wishes with their SDMs and family so that wishes are clear.

## When SDMs disagree

Sometimes, when there is more than one SDM, they disagree on treatment decisions. Healthcare professionals at UHN can help SDMs resolve these disagreements. If SDMs still cannot agree, the Public Guardian and Trustee will make the decision.

## What happens if the Treatment Team disagrees with the SDM?

Sometimes the patient's treatment team thinks the SDMs are not making a decision based on the wishes or best interests of the patient. If the team and the SDMs cannot agree, the team or the SDMs may apply to the Consent and Capacity Board to see if the treatment decision was made according to the law.

## **We Can Help**

At UHN we are committed to providing excellent patient care and making sure that patients and SDMs know their rights and what they need to do. Please feel free to talk to the staff here. Members of the healthcare team can help you through these difficult times to make the health care choices that the patient would want. Contact information is listed on the following page.

\*Legal Disclaimer: The information contained in this brochure is not legal advice and is not a substitute for the advice of a lawyer.

## **Contact Information & Resources**

### **University Health Network:**

Bioethics:

TGH/PMH: (416) 340-4800 X 8607

TWH: (416) 603-5800 X 2521

Patient Relations: (416) 340-4907

### **Consent & Capacity Board**

Toronto Regional Office

Phone: (416) 924-4961

FAX: (416) 924-8873

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

### **Office of the Public Guardian and Trustee**

1-800-518-7901

[www.attorneygeneral.jus.gov.on.ca/english/family/pgt/](http://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/)

### **Health Care Consent Act 1996 Substitute Decisions Act**

[www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca)

UHN Patient Education brochure: *Information on Living Wills and Power of Attorney (D-5092)*

This pamphlet is adapted from an earlier version developed by William Osler Health Centre, Clinical & Corporate Ethics Program