

What is a substitute decision-maker?

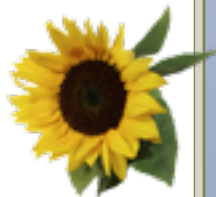
A substitute decision-maker is someone who makes decisions on your behalf if you become incapable of making them yourself.

Who can be a substitute decision-maker?

You can choose anyone you wish to be your substitute decision-maker as long as they are both willing and able to act on your behalf. However, you cannot choose someone who is under the age of 16, someone who is mentally incapable or someone who is paid to provide you with care unless this person is your partner or relative.

What does a substitute decision-maker need to do?

The substitute decision-maker is responsible for acting on your behalf to ensure that your wishes and plans for care are honoured should you be unable to do so for yourself. He/she will be contacted to give consent prior to your treatment by a doctor or other health care practitioner. An exception to this is if a health care practitioner does not know your wishes and needs to act in an emergency.



Organization

a member of

**The Mississauga Halton Local
Health Integrated Network**

This document includes guidelines designed to assist staff, patients/residents and their substitute decision-makers to explore advance care planning. It does not cover every option available in the applicable legislations. It is not meant to be legal advice. Some legal terminology in the statute has been described here in simpler words to make it easier to understand.

Substitute Decision-Making and Power of Attorney for Personal Care

**A Quick Guide to the Substitute
Decision-Making Process in Health Care**



**Funded by the Mississauga Halton Local
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*adapted from the Central-West Local Health
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What happens if I have not appointed a substitute decision-maker?

In this situation, the law guides health care practitioners to turn to a hierarchy of people to make health decisions on your behalf. They are as follows:

- Court-appointed Guardian
- Power of Attorney for Personal Care
- Representative appointed by the Consent and Capacity Board
- Your spouse, common-law spouse or partner
- Your child (aged 16 or older) or parent
- Your parent with right of access only
- Your brother or sister
- Any other relative by blood, marriage or adoption
- The Office of the Public Guardian and Trustee

What is a Power of Attorney for Personal Care?

A Power of Attorney for Personal Care is a document through which you appoint your substitute decision-maker, making him/her responsible for all aspects of your personal care. This would include health care, nutrition, hygiene, personal safety, clothing and shelter.

Is a Power of Attorney for Personal Care the same as an Advance Care Directive/Living Will?

No, they are not the same. Advance directives, or living wills, are written documents in which a person can communicate his/her wishes about future care plans. In these documents it is not necessary to name a substitute decision-maker. If, however a person does name someone as a substitute decision-maker and it meets the formal standard of a Power of Attorney for Personal Care, then it must be treated as such.

Is it possible to have more than one Attorney for Personal Care?

You may choose to have more than one attorney for personal care, or different attorneys for different kinds of care decisions. If you do have more than one, decisions may be made jointly (together) or decisions can be made separately. In the situation where different attorneys are appointed to make different kinds of personal care decisions, one could make decisions about shelter, another about health care, etc. Appointing an alternate or back-up substitute decision-maker can be useful should the first person be in a situation where he/she is unable to act for you.

What is the Process for appointing a Power of Attorney for Personal Care?

A Power of Attorney for Personal Care needs to be documented in writing, signed and dated by you, and witnessed by two people. At the time of completing it you must be able to understand what the document means and that the person you name in the document will make personal care decisions for you when you are no longer able to do so for yourself.

Further Resources

A Guide to Advance Care Planning
Government of Ontario

Living Will
U of T Joint Centre for Bioethics
www.utoronto.ca/jcb

Let Me Decide
D.W. Molloy, 2004

Office of the Public Guardian and Trustee
www.attorneygeneral.jus.gov.on.ca

Advocacy Centre for the Elderly
www.advocacycentreelderly.org

Consent and Capacity Board
www.ccboard.on.ca

Substitute Decisions Act
www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_92s30_e.htm

Health Care Consent Act of Ontario
www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_96h02_e.htm