

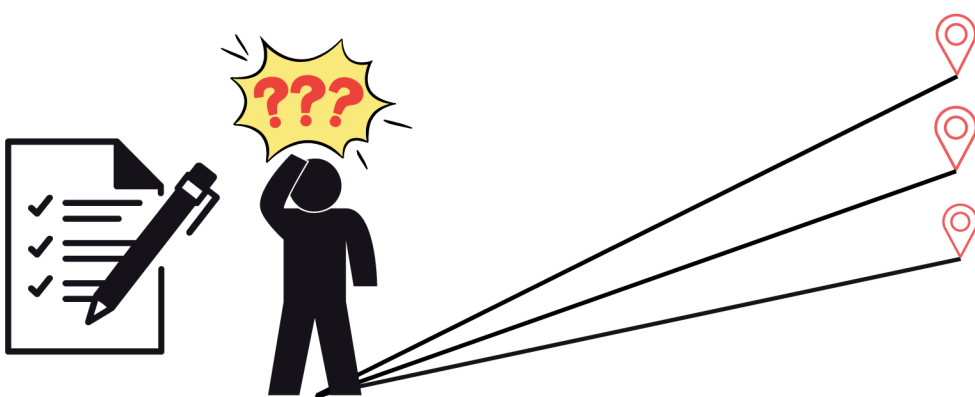


Ontario's *Health Care Consent Act*

An Ontario law called the *Health Care Consent Act* says who makes the following health decisions for people who are **not mentally able** to make these decisions for themselves

- **Treatment:** Activities for health-related purpose
- **Moving to a long term care home (LTCH):** Place given some government money where people live because they qualify to get personal assistance services available in that place
- **Personal assistance services:** Help with daily living activities, such as dressing, for people who live in a LTCH or who live in places that get no government money to give care called retirement homes

If someone is **not mentally able** to make these decisions for themselves, the decision must be made by another person with the **legal right** to make the decision



A person may only make the above health decisions for another person if they meet the following conditions:

1. **Mentally able** to make the decision
2. **16 years or older** -- Exception: someone under the age of 16 may make a decision for their child
3. **Available** to make decisions in a reasonable amount of time
4. There is **no court order or separation agreement** that stops the decision-maker from seeing the person or that stops the decision-maker from making this type of decision for the person

This sheet was written by Grey-Bruce Community Legal Clinic in June 2025 to give general legal information.

Talk to a lawyer about what the law means for you. Contact Grey-Bruce Community Legal Clinic if you need help finding a lawyer at 519-370-2200, ext. 21 or general@gbclcl.clcj.ca

If someone is not mentally able to make the health decisions listed in the *Health Care Consent Act*, the highest ranking people below must make the decisions. If there are 2 or more people at the same level, they **all have the **same right** to decide**

1. Court Appointed Guardian(s) of the Person

Guardian(s) may only make the kinds of decisions allowed in court Order

2. Person/People Named in Power of Attorney (POA) for Personal Care Papers

Person/People named in POA papers may only make the kinds of decisions **allowed by POA papers**. All people named (except back up decision-makers) must be involved in decisions unless POA says they may act separately or severally

3. Decision-Maker(s) Appointed by the Consent & Capacity Board (CCB)

Decision-maker(s) may only make the kinds of decisions allowed by CCB Order

4. Spouse or Partner (these are not the same)

Spouse: married and do not live apart due to marriage breakdown **or** unmarried and living together in a conjugal relationship which is:

- (i) living together for at least one year;
- (ii) living together with their child; **or**,
- (iii) made a cohabitation agreement under *Family Law Act*

- **Partner:** lived together for at least one year and have a close personal relationship of primary importance to both people

5. Child or Parent

- If a court Orders a **child's adoption**, biological parents have no decision-making rights even when the child is an adult
- Biological parents do not have right to make decisions for their children under age 16 **if court gives decision-making power to someone else**, such as Children's Aid Society
- Biological parent with **only a right to visit** their child under age 16 and not decision-making rights may only make decisions for the child if parent with decision-making power is not available

6. Siblings (includes half siblings)

7. Any Other Relative by Blood, Marriage or Adoption, including in-laws and step relatives

8. Public Guardian & Trustee

Public Guardian and Trustee must make the decision **if:**

- i) there is **no one above** who meets conditions to make decisions;
or,
- ii) there are 2 or more people at the same level above who **cannot agree** on a decision, such as four children or two attorneys for personal care

**For Public Guardian & Trustee
call: 1-800-387-2127**

Elder Law Project

