

Substitute Decision Maker (SDM)

An adult making a decision for another adult under the HCCA is called a substitute decision-maker (SDM)

A SDM may only make a decision for another adult under the HCCA **if** the adult is **not mentally able** to make the decision themselves



SDMs must make decisions based on the adult's **most recent wish spoken or written** while the adult was still mentally able to make their own decisions

If there is no such wish, or it is impossible to follow the wish, the SDM must make the decision based on the adult's **Best Interests**

SDM is a serious responsibility

SDMs who do not follow these rules can be replaced with another SDM. In extreme situations, SDMs may be sued or charged with a crime for not following these rules.



SDMs may resign if they do not want SDM responsibilities.

More Information:

This pamphlet 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 to find a lawyer.



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www.gblegalclinic.com/elder-law-project/

Elder Law Project



Duties of Substitute Decision-Makers for Adults under the Health Care Consent Act, 1996 (HCCA) in Ontario



What is the HCCA?

The HCCA is a law in Ontario that allows an adult to make **some health care decisions** for another adult **if that adult does not have legal papers**, such as a power of attorney, naming someone to make these decisions for them. Someone is considered an adult in the HCCA if they are **16 years old**.

What decisions are part of the HCCA?

Treatment: Activities for a 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

Examples of decisions that are NOT part of the HCCA:

- Who is allowed to visit the adult
- Moving adult somewhere other than a LTCH, such as a retirement home or apartment
- Spending adult's money



What are Best Interests?

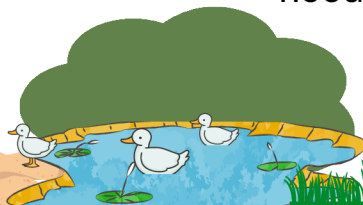


SDMs must think about **5 things** to figure out best interests.

1. Adult's **values and beliefs** that the adult would likely follow if the adult were still mentally able to make their own decisions.



2. Adult's **wishes when not mentally able** to make their own decisions, such as not wanting needles



What are Best Interests?

3. SDM's decision should make adult's **condition or quality of life** better, stop it from getting worse, or slow it down from getting worse. Will doing nothing or taking less action make adult's condition/quality of life worse?



4. SDM's decision should give the adult **more benefit than harm**



5. If a decision must be made about a **personal assistance service**, SDM should make the decision that will likely **increase adult's independence**