

How Does a Guardian Make Care Decisions?

FACT SHEET #8

The Guardianship Order granted by the court will state the specific areas of authority granted to you as the guardian. As a guardian, you have been granted the authority “to decide whether or not the adult should receive care, and give or refuse consent to care, in accordance with the *Care Consent Act*.”

What is “care”?

“Care” is defined in the *Care Consent Act (Decision Making, Support and Protection to Adults Act, Schedule B)*.

Care means:

- a) health care
- b) admission to live in a care facility, and
- c) personal assistance services.

How should a guardian make care decisions?

A guardian should know the adult’s wishes, beliefs and values wherever possible. If the guardian does not know what the adult wanted while they were capable, or if the adult’s wishes are no longer reasonable, then decisions must be made in the best interests of the adult. In determining the adult’s best interests, the guardian must consider the adult’s current wishes and the effects of any care or withholding of care.

Before any care decisions can be made, it is important that the guardian understand the issues. The guardian should feel comfortable asking questions about anything he or she doesn’t understand.

This may require collecting information from a variety of sources, sorting through it and questioning it in order to understand it. The guardian must speak to the adult, and may need to consult with family members and friends to try to determine what the adult might have wanted if they were still capable. The guardian should help the adult understand the information if possible, and then make an informed decision about care for the adult.

Where can I find relevant information?

The adult’s health care professional (such as the family doctor or dentist) is likely the first source of information. Sources of information also include other health care professionals who provide services to the adult such as dietitians, physiotherapists, speech/language pathologists, occupational therapists, nurses, social workers, and so forth.

Information from caregivers and others who see the adult regularly is also important. These people may know of the adult’s past and present health and other care needs as well as the adult’s responses to previous care interventions.

What types of questions need to be asked?

It is important that the guardian ask a number of questions to help clarify the situation. These may include:

- What is the condition causing concern?
- What needs to be done and when?
- What are the intervention alternatives?
- What are the pros and cons, side effects, implications, limitations and compromises of each alternative?
- Would the adult's condition or well-being likely improve, worsen or stay the same if the adult receives the care or does not receive the care?
- Will the benefits of the care outweigh the risks or negative consequences?
- Would a less restrictive or less intrusive form of care that is available have greater benefits or less negative consequences?
- What medical outcome can be expected?
- What impact will the outcome have on other areas of the adult's life?
- Will the adult be able to help look after him/herself?
- Has the adult expressed preferences in this area in the past?

The guardian may be asked by the health care provider to sign a consent form to confirm and document a health care decision. Decisions made about health and personal care are important and often affect other areas of the adult's life, such as where they live and in what activities they are able to take part.

This area of authority of a guardian can be found in Section 38(1)(f) of the *Decision Making, Support and Protection to Adults Act, Schedule A, Adult Protection and Decision Making Act, Part 3*.

This fact sheet is one in a series to provide assistance and information regarding guardianship under the *Decision Making, Support and Protection to Adults Act, Schedule A, Adult Protection and Decision Making Act, Part 3*. This legislation can be found at <http://www.gov.yk.ca/legislation/acts/Aadpr.pdf>.

For more information please call your lawyer or refer to the resource list available from the Office of the Public Guardian and Trustee.

FOR MORE INFORMATION, CONTACT THE OFFICE OF THE PUBLIC GUARDIAN AND TRUSTEE

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