



Consent & Legal Matters



About this Section

Why is this Section Important?

This section includes information about some of the legal terms that you may hear in your caregiving journey. The section may not include everything you could need, but these were identified by caregivers as information that's often confusing and important to know.

How to Use this Section

In this section you can keep any additional information or legal papers that you collect. There is a more secure envelope at the back of the binder to hold papers as well.

Remember, this binder may contain information that is sensitive, private and valuable. Please keep your binder in a safe place. The information in this binder, once no longer needed, must be securely disposed. Ask about secure disposal at your hospital, doctor's office or pharmacy.

Things you can include in this section: Power of Attorney (POA), Do Not Resuscitate (DNR), custody or separation documents, living will, next-of-kin names and contact information, consent forms and end of life documents.





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Please use this section as a starting point for conversations with your healthcare providers (and others) about these topics where applicable. **The information in this section is not to be used as advice or legal counselling.** The information in this section is accurate as of October 11, 2018.

What is a Caregiver?

- A **Caregiver** is a family member, friend, or neighbour who provides personal, social, psychological and physical support, assistance and care for a family member or friend in need. This role can be for any length of time.

What is a Substitute Decision Maker?

The Substitute Decisions Act

- The Substitute Decisions Act (SDA) is the law that governs who can make decisions about their
 - i) personal care and ii) personal property when that person is not mentally able to make certain kinds of decisions. The Act covers financial and property management decisions, and decisions about personal care, which include health care, food, housing, safety, as well as end-of-life decisions.¹
- A person who makes decisions for another person is called a **Substitute Decision Maker**. This person is someone who is given the legal authorization to make personal care decisions on behalf of that person. The need to take such a step could be caused by illness, accident or disability, a temporary condition or a permanent one.¹
- In Ontario everyone automatically has a **Substitute Decision Maker**. Under the act, healthcare providers obtain consent from the person highest on the following list:
 1. Guardian of person with authority for treatment
 2. Attorney named in Power of Attorney for Personal Care
 3. Representative appointed by Consent and Capacity Board
 4. Spouse or Partner
 5. Child, Parent or Children's Aid Society
 6. Parent with right of access only
 7. Brother or Sister
 8. Any other relative by blood marriage or adoption
 9. Office of the public guardian and trustee¹

¹ Ministry of the Attorney General, The Office of the Public Guardian and Trustee (2000). A Guide to the Substitute Decisions Act. Ontario: Queen's Printing for Ontario. Available from: <https://www.attorneygeneral.jus.gov.on.ca/english/family/pgt/pgtsda.pdf>





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What is a Power of Attorney (POA)?

- **Power of Attorney** is a legal document that gives someone else the right to act on your behalf when you are unable to do so.²

Are there different kinds of Power of Attorney?

- Yes. In Ontario there are three kinds of **Power of Attorney**:
 - i. **A Continuing Power of Attorney for Property (CPOA)** covers a person's financial affairs and allows the person named to act for you even if you become mentally incapable.²
 - ii. **A Non-Continuing Power of Attorney for Property** covers a person's financial affairs but can't be used if they become mentally incapable. A person might give this Power of Attorney, for example, if they need someone to look after their financial transactions while they are away from home for an extended period of time.²
 - iii. **A Power of Attorney for Personal Care (POAPC)** covers a person's personal decisions, such as housing and health care.²

What is a Living Will?

- The expression **Living Will** is sometimes used to refer to a document in which a person writes down what they would like to happen if they become ill and cannot communicate their wishes about treatment. It is quite common, for example, for people to write a **Living Will** saying that they do not want to be kept alive on artificial life supports if they have no hope of recovery. The term **Advance Directive** is also frequently used to refer to such a document. Some people use the phrase **Proxy Directive** to describe a document that combines a **Power of Attorney** and a **Living Will**.²

Is a Living Will the same thing as Power of Attorney?

- No. A **Power of Attorney** is a legal document in which you name a specific person to act on your behalf. You can, however, write your treatment wishes (your **Living Will** or **Advance Directive**) as part of your **Power of Attorney** document so that you can be sure your attorney is aware of them. A **Living Will** just addresses your treatment and personal care wishes and does not need to name anyone or be written in any specific way. A **Living Will** is only applicable during the life of the person for whom it's written.²

² The Office of the Public Guardian and Trustee (2007). *Powers of Attorney – Questions and Answers* (ISBN 978-1-4606-7972-2). Ontario: Queen's Printing for Ontario.





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What is a Do Not Resuscitate - DNR?

Do Not Resuscitate means that the healthcare provider (in accordance with his/her level of certification) will not initiate any of the interventions listed in the definition of CPR, below.³

Cardiopulmonary Resuscitation (CPR) An immediate application of life-saving measures to a person who has suffered sudden respiratory or cardiorespiratory arrest. This includes some or all of the following procedures:

- Chest compression
- Defibrillation and/or pacing (application of electrical current to stimulate/regulate heart function)
- Artificial ventilation (e.g. mouth-mouth or assisted ventilation with compression bag)
- Insertion of an artificial airway (to provide significant pathway of oxygen to lungs)
- Resuscitation medications that target cardiac function³

**** Speak to your Doctor or Nurse Practitioner about DNR to find out more information that can support your decision about this order.**

DNR Confirmation form (DNRC) – *used by firefighters and paramedics only⁴

- This form confirms that the existing care plan does not include CPR
- This is a standardized form in Ontario for first responders to follow (paramedics, firefighters)
- This form is valid when signed by a doctor or nurse. Paramedics and firefighters are not required to review or confirm the actual **DNR** order in the patient/client's health record.
- Form can be used as many times as necessary
- This form is different from the hospital's **DNR** as it is stating whether or not to initiate CPR – hospitals have different levels of care. Once at hospital the physician will further clarify the level of care. This form was created for first responders to have a clear direction on whether or not to initiate CPR.
- The patient or substitute decision maker can rescind **DNR Confirmation Form** at any time.
- Speak to your healthcare provider for more information about filling out a **DNR Confirmation Form**⁴

³ Basic Life Support Patient Care Standards – Version 3.1. (2018). [Downloadable Document]. *Emergency Health Regulatory and Accountability Branch Ministry of Health and Long-Term Care*. Retrieved from http://www.health.gov.on.ca/en/pro/programs/emergency_health/docs/basic_life_support_patient_care_standards_v3_1_en.pdf

⁴ Do Not Resuscitate Confirmation Form. (2008). [Downloadable form]. *Access from the Central Forms Repository Ontario*. Retrieved from <http://www.forms.ssb.gov.on.ca/mbs/ssb/forms/ssbforms.nsf/FormDetail?OpenForm&ACT=RDR&TAB=PROFILE&SRCH=&ENV=WWE&TIT=DNR&NO=014-4519-45>





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Personal Health Information Protection Act (PHIPA)

The **Personal Health Information Protection Act** is federal legislation that addresses issues around the collection, use and disclosure of personal health information⁵

Organ and Tissue Donation

When considering your final wishes, it is important to consider organ and tissue donation. To learn more about organ and tissue donation visit the following websites:

- <https://www.beadonor.ca/about-donation/faqs>
- <https://www.giftoflife.on.ca/en/>

To register for organ and tissue donation in Ontario:

- <https://www.ontario.ca/page/organ-and-tissue-donor-registration>

Lawyer Name/Firm: _____

Telephone Number: _____

E-Mail Address: _____

⁵ Cavoukian, A (2004) A Guide to the Personal Health Information Protection Act—Rev. Toronto, Ontario: Information and Privacy Commissioner/Ontario

