

Documentation of Substitute Decision Maker(s) (SDMs)

Patient identifier label

The person(s) who is **highest** on the Hierarchy of Substitute Decision-Makers (see Box A on reverse) **AND** meets the SDM requirements (see Box B on reverse) is the legally authorized SDM(s).

Please Note: An SDM is only required to make decisions when a patient **does not** have the capacity to make a treatment decision(s) (see Box C on reverse). Capacity is decision-specific. A person may be capable of making all, some, or no treatment decisions.

Substitute Decision Maker(s) Identification	
<p>Ranking on Hierarchy <i>Please check HIGHEST ranked SDM(s).</i></p> <p><input type="checkbox"/> Guardian of the Person</p> <p><input type="checkbox"/> Attorney for Personal Care</p> <p><input type="checkbox"/> Consent & Capacity Board Representative</p> <p><input type="checkbox"/> Spouse or Partner</p> <p><input type="checkbox"/> Child (≥16 yrs.) or Parent or CAS</p> <p><input type="checkbox"/> Parent with Right of Access Only</p> <p><input type="checkbox"/> Brother or Sister</p> <p><input type="checkbox"/> Any Other Relative</p> <p><input type="checkbox"/> Public Guardian and Trustee</p>	<p>Contact Information <i>If more than 3 SDMs, please complete an additional form.</i></p> <p>SDM Name (please print): _____</p> <p>Telephone: _____</p> <p>Address: _____</p> <p><i>If more than one EQUALLY RANKED SDM:</i></p> <p>SDM #2 Name (please print): _____</p> <p>Telephone: _____</p> <p>Address: _____</p> <p>SDM #3 Name (please print): _____</p> <p>Telephone: _____</p> <p>Address: _____</p>
<p>Additional Information: E.g. If the person listed highest on the hierarchy does not meet the requirements outlined in Box B, please document criteria not met here (e.g. they are not capable, not willing, a spouse who is now separated) _____</p> <p>_____</p>	

Document Verification (If Applicable)	
<p>If the SDM(s) has been legally appointed (i.e., guardian, attorney for personal care, or consent and capacity board representative) please complete the following:</p>	
<p><i>If document IS NOT immediately available ...</i></p> <p>Copy requested for verification <input type="checkbox"/> Yes</p> <p>Copy requested for health record <input type="checkbox"/> Yes <input type="checkbox"/> Refused*</p>	<p><i>If (or when) document IS available...</i></p> <p>SDM(s) verified by reviewing the document <input type="checkbox"/> Yes</p> <p>Copy provided and placed on health record <input type="checkbox"/> Yes <input type="checkbox"/> Refused*</p>
<p>*An SDM(s) who indicates that they have been legally appointed should produce the document for verification purposes, upon request. However, neither the patient nor SDM(s) is required to agree to a copy being placed on the health record.</p>	

<p>Form Completed By (Staff and/or Physician):</p> <p>Name (please print): _____</p> <p>Title _____</p> <p>Date: _____</p>	<p>Form Updated By (Staff and/or Physician):</p> <p>Name (please print): _____</p> <p>Title _____</p> <p>Date: _____</p>
---	---

Substitute Decision Making Tips & Information

Box A: Hierarchy of Substitute Decision Makers

Adapted from Section 20(1), Health Care Consent Act, 1996

The person(s) who is highest on the list and meets the requirements outlined in Box B below is the person who gives or refuses consent on behalf of the incapable patient. If the person who is highest on the list does not meet the requirements outlined in Box B, select the next highest person on the list who meet the requirements. If there is more than one person on the same line (e.g., three children), they have equal decision-making authority and all should be listed on the form.

- Guardian of the Person (if given that authority)
- Attorney for Personal Care (if given that authority)
- Representative appointed by the Consent and Capacity Board
- Spouse or Partner
- Child (≥16 years) or Parent or Children's Aid Society (if applicable)
- Parent with only right of access
- Brother or sister
- Any other relative

If no one on above list can be found or if two or more equally-ranked SDMs cannot agree, The Office of the Public Guardian and Trustee will be the SDM.

Definition of "Spouse": Two individuals are considered spouses if a) they are married to each other; or b) they are living in a conjugal relationship outside of marriage and have cohabitated for at least one year, are together the parents of a child, or have together entered into a cohabitation agreement.

Definition of a "Not Spouse": Two persons are not considered spouses if they are living separate and apart as a result of a breakdown of their relationship.

Definition of "Partner": Either of two persons who have lived together for at least one year and have a close personal relationship that is of primary importance in both persons' lives.

Box B: Requirements to be a Substitute Decision Maker

A person may give or refuse consent on behalf of an incapable patient only if he or she meets all of the following requirements:

- is capable with respect to the treatment;
- is at least 16 years old, unless he or she is the incapable person's parent;
- is not prohibited by court order or separation agreement from having access to the incapable person or giving or refusing consent on his or her behalf;
- is available (within a timeframe reasonable to the circumstances); and
- is willing to assume the responsibility of giving or refusing consent.

Box C: Determination of Capacity

The healthcare provider who is proposing the treatment also determines the capacity of the person from whom consent is sought, i.e., the patient or the substitute decision maker(s). Capacity requires both:

- the ability to understand the information that is relevant to making the decision; and
- the ability to appreciate the reasonably foreseeable consequences of making (or not making) the decision.

If you have any questions or concerns related to substitute decision makers, please refer to Consent to Treatment P&P-INT, Guide to Substitute Decision Making Brochure (available on THP HUB), social work, or contact an ethicist with the Regional Ethics Program (x82-3811).